ENGLAND'S
INDEPENDENCY
Upon the
Papal Power
Hiſtorically and Judicially Stated,
By
Sr. JOHN DAVIS, Attorney Generall in *Ireland*,
And by
Sr. EDWARD COKE, Lord Chief Juſtice in *England*,
In Two REPORTS,
Selected from their greater Volumes;
For the Convincing of our *Engliſh Romaniſts*, and Confirming of thoſe who are yet unperverted to the Court or Church of *ROME*.

With a Preface written by
Sir JOHN PETTUS, Knight.

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To the Right Honourable,

JAMES

Earle of

SUFFOLK,

Lord Lieutenant of that County, &c.

MY LORD,

I *Have the honour of being one of your* Deputies *in the County of* Suffolk, *which I hope will admit me to the freedome of placing your* Lordſhip *in the Front of Two* Reports *cull'd out from the many other* Reports *of two as Learned perſons in our Laws as that Age did afford.*

 I have

The Epiſtle

I have perſwaded the Stationer *to reprint them, as fit at this time to be generally perus'd. For Sr.* John Davis, *in his Report of* Lalor's *Caſe, gives an Hiſtoricall Account of the* Pope's Invaſions *upon us from* Edward *the* Confeſſor's *time in matters* Civil; *and the Lord Chief Juſtice* Coke *gives alſo a full and clear Account of the* Pope's Intruſions *upon us in matters* Eccleſiaſticall. *Neither of them do meddle with the Cavills of* Religion *between us and the* Papal Power, *but what concerns their State and ours, and that deduced from Antiquity; how we ought to pay our ſingle Obedience both to* Church *and* State, (*as our Predeceſſors have done, or endeavour'd to doe, for many Ages, to their reſpective* Kings.) *And though there have been many* Invaſions *or* Intruſions *upon us by the Power and Policy of the* Pope *and his Agents, yet we were alwaies ſtruggling to get out: Sometimes we maſtered them, and ſometimes we were maſtered by them; according to the Reſolution or Weakneſs of thoſe our former* Kings *who were to maintain their inherent Intereſts. And however ſome* Papal *Pretences ſeem to be, yet we may clearly ſee (when they got the upper hand)*

what

what Subjection they intended to impoſe upon us, as they did on King John ; *and they nick'd the time when he was imbroyl'd and even totally immerged in the Diſtempers of his unruly* Subjects, *and inraged* Forreiners : *and then, by the opportunity of thoſe* Factions *and* Forreiners *they did ſubjugate this* Kingdome *to his* Principality *in* Italy, *and made it its Vaſſall more then ever any* Emperour *of* Rome *did pretend to, or could accompliſh. And though after* King John, *there were various Conteſts by our ſucceſſive* Kings, *yet none did ſo effectually rout the* Papal Intereſt *here as* Henry *the* VIII. *for which the* Romaniſts *do rip up all his Vices, to make him as odious to the world as poſſible : and among other things they affirm,* that He was the man that rebell'd from their Church. (*Whenas their Hiſtorie and ours tell us, and them, that he lived and died a* Roman Catholick.) *And they farther ſay,* that it was He that brought in our Religion ; *which they now call* Hereſie, *and is but a* Reformation *of theirs : and even that* Reformation *was begun and proſecuted (though but in parcells) by former Ages, but not eſtabliſht till* Henry *the* VIII. *had firſt*

broke

broke their Civil Intereſt here, and then it went on with eaſe by King Henry's *Succeſſours.*

But by their Railings on Henry *the* VIII. Luther, Calvin, *and I know not whom, (whoſe Doctrines we do not altogether follow) the* Papal *Agents do moſt wonderfully deceive the* unfixt *and wavering minds of men, who do not know the true Foundation of our Church and State here in* England, *clearly and through all Antiquity* independent *upon any* Church *or* State *but its own, or on any perſon but the* Monarch *thereof; as is moſt fully ſet forth in theſe excellent* Reports, *wherein your* Lordſhip *and others by an hour's reading may ſee what is our Right, and how it hath been maintain'd, and loſt, and regain'd by that moſt reſolute* Prince, *then owning the whole Body of the* Papal Doctrine, *but not the* Pope's Superiority *or power to eſtabliſh any thing in theſe Kingdomes.*

It is true, this Prince *had Diſcontents, and was croſt in his Deſigns, which it may be did either provoke him, or upon this it is likely he did*

did take occaſion to pick a quarrel, that he might the more ſpeciouſly accompliſh what his Predeceſſours could not effect. However, God doth often produce good Events by ſuch as we call evill Mediums: *as the Beams of the Sun make their way through Darkneſſe and Vapours; which now again begin to ſpread over our heads like thick Clouds contracted by long Exhalations, ready to break and ſend forth Lightning,* Thunder *and Storms upon this Nation. And thus I apprehend their* contraction.

When Henry *the* VIII. *had thus reſtor'd us to our Liberties and ancient Rights, and diſbanded the* Papall *Power and Intereſt here, it was time for the* Pope *to contrive ſome other* Stratagems; *and therefore what he could not doe by the power of* Bulls, &c. *he tries to effect by a long and continued* Art. *And firſt, he infuſeth into his* Catholick King *of* Spain, *how fit a perſon he was to be* Univerſal Monarch *of Chriſtendome: which the* King *of* Spain's *Ambition readilie embraced, (the whole Deſign whereof may be read in* Campanella *the Jeſuite, in his Diſcourſe of the* Spaniſh

niſh Monarchy.) *About the ſame time the* Pope *alſo inveigles his moſt* Chriſtian King, Henry *the* IV. *of* France; *telling him alſo how fit a perſon he was to be* Univerſal Moderator *of Chriſtendome: which Bait this* King's *Ambition did alſo readily embrace, (the whole Modell and Platform where f is alſo ſet down by the* Biſhop *of* Rhodes *in his Hiſtory of the ſaid* Henry *the* IV.) *And in all this time, while both theſe* Kings *were driving on theſe Deſigns, it is obſervable (by the Confeſſion of thoſe Hiſtorians) that neither of them were privy to each other's* Intentions, *the buſineſs was ſo cunningly managed by the* Pope, *whoſe great Art it was to keep their Deſigns ſecret, and put both their Wheels in motion at once; yet to keep his Spoak in that Wheel which turned moſt to his advantage.*

In both theſe cited Books (of Rhodes *and* Campanella) *your* Lordſhip *will find that their chief aims and directions were to weaken the* Engliſh: *and therein they ſay in theſe words,* That there was no better way then by cauſing Diviſions and Diſſenſions among the *Engliſh*, and by continuall keeping up the

the ſame; and that as for their Religion, it could not be eaſily rooted out unleſs there were ſome certain Schools erected in *Flanders*, &c. by the Scholars whereof there ſhould be ſcattered abroad the ſeeds for Diviſions in the Natural and Theologicall Sciences, which would diſtract and diſcompoſe their opinions and judgments: and that the *Engliſh*, being of a nature ſtill deſirous of Novelties and Changes, are eaſily wrought over to any thing.

Now that this hath been put in practice I think is obvious to every man; and as clear, that whilſt all Chriſtendom *are in Arms and Confuſions, onely the* Pope *ſits quiet, and* ſmiles *to ſee what work he makes among us, reſolving (if not prevented) to tire every man out of his* Religion *that ſhall withdraw, not onely a total, but even the leaſt part of Obedience to his* Chair.

And thus many poor ſouls are captivated, (eſpecially thoſe of our Nation, for whom this is intended) ſome being perſwaded to acknowledge the Doctrines *of the Church of* Rome,

but not the Power *of the Court of* Rome ; *and when they are plauſibly got into the firſt, they do not conſider how inſenſibly and inevitably they are* enſnar'd *into the other. For certainly the diſtinction of the* Church *and* Court *of* Rome *is ſo ridiculous, that it is a mere Trap for weak, unknowing and unreſolved perſons: for ſurely the* Pope *will never be perſwaded to reſign his* Temporalties *to thoſe* Princes *from whom his Predeceſſors uſurpt them, to take upon him meerly the duty of the* Church. *So that when one of them perſwades you to turn to the* Church *of* Rome, *it is but to make you to turn or be ſubject to the* Court *of* Rome, *(and its* Cardinalls, *who are but a Combination of* Temporall Princes) *and to all its temporall Impoſitions, to maintain ſuch* Princes *under the title of the* Pope, *and ſhrowded under the Canopy of* Eccleſiaſticks *and* Piety. *The truth is, the Queſtions about* Religion *are purpoſely rais'd and infus'd to intoxicate other mens brains: for the* Court *of* Rome *do but laugh at the things call'd* Merit, Idolatry, Supererogation, *&c. whilſt many of their zealous Agents here (I perſwade my ſelf out of pure Piety) are rea-*

dy

dy to die upon the ſpot in the defence of thoſe Tenents; *whereas, poor ſouls, they might ſee (if they would) that that* Court *is onely to imploy them under the ſhrowds of Piety to bring in* Griſt *to the Mill by* money *and* uſurping *other mens* territories; *ſo as the ancient and important queſtion, why we ſhould not give unto the* King *the things that are the* King's, *is quite laid aſide, and the queſtion is almoſt now, why we ſhould not give to the* Pope *the things that are the* King's, *and ſubjugate this* Kingdome *to their* Principalities. *And thus by deceiving even their own Agents with a pretence of driving on* Piety, *(which is onely* Sovereignty *) even many of the* Papiſts *themſelves are innocently betray'd, and ſo are become betrayers of others.*

But to return to the Hiſtoricall part. After Henry *the* VIII. *had caſt off the* Dominion *of the* Papal Court, Edward *the* VI. *ſucceeded, in whoſe* Minority *his* Councell *were ſo wiſe, (though many of them of the* Roman Church *) that the reſolution of*

Henry *the* VIII. *was re-aſſu n'd in caſting off the* Pope's Power, *and a Foundation laid for eſtabliſhing a* Church *here, by a Form of* Diſcipline *and* Doctrine *free from the* Power *and* Errours *of the* Papal *Court and Church: and (though ſome Interruption was given by* Queen Mary, *yet) what was wanting by* King Edward's *ſhort Reign, was compleated by* Queen Elizabeth, *who in her very firſt year, by the full Conſent of the* Lords *and* Commons *in Parliament, by example of many of her Predeceſſors, did enact,* That no forrein Potentate or perſon ſhould exerciſe any power within any of her Dominions; and all Eccleſiaſticall Juriſdiction ſhould be annext to the Crown. *And in the* 5. *year of her Reign in particular it was enacted,* That whoever ſhall acknowledge any Juriſdiction of the Biſhop or See of *Rome* within any of her Dominions ſhould be guilty of a *Præmunire*, they, and their acceſſaries.

And that the Principles of the Doctrine *and* Diſcipline *of our* Reformed *Church might the better be known, the frame of it made*

made in Edward *the* VI. *his time, was confirmed with ſome few alterations, and* 39 Articles *eſtabliſhed as a* Foundation *and* Standard *of our* Doctrine *and* Diſcipline, *diſtinct from that of the* Court, *as alſo reformed from that of the* Church, *of* Rome.

But ſince her time even to this, whilſt we have thought our ſelves ſecure *from the* Papal *Authority, their Religion hath* ſlily *crept in and incroacht among us: and beſides their many known ways, they have a particular art of* incouraging *and* fomenting *all publick and private* Differences *and* Diſcontents, *purſuant to their* ſecret *Inſtructions for the advancement of the* Papal *Dominion.*

Now, as it is impoſſible for the art of Phyſick *to reduce the* 4 Humors *of a man's Body into one; ſo no arts of* Policy *can reduce the temper of men into one* Perſuaſion *of Religion.*

So that herein the wiſdom of our Counſellors

is

is diſcerned, in contriving that their number may not come near the balance *of the* ſtaple *or* eſtabliſht *intereſt of this Kingdom, both as to* Church *and* State, *wherein we are to ſhew our ſelves (like our predeceſſors) true* Engliſh-*men, and not to* Italianate *our ſelves to the* Dependency *of any other State.*

And that this may be the more charitably *perform'd, they may be diſtinguiſht into* Actives, *and* Paſſives. *By* Actives *I mean ſuch as make it their whole buſineſs to* pervert *and* captivate *our Subjects to be ſubject to the* Pope, *under the notion of* Religion; *and by* Paſſives *I mean ſuch as live* innocently *among us: and there is leſſe caution and ſtrictneſs requiſite to thoſe who are* paſſive *in reſpect barely of their Religion, then to thoſe who are* active *in* promoting *it.*

And therefore many ancient Laws *have been made long before* Henry *the* VIII. *entituled Statutes of* Præmunire; *which word in* Engliſh *is, to* fortify *a place before enemies come, or to* provide *againſt any* onſet *by them. And all*

all thoſe Laws are intended againſt the Pope's Spirituall *or* Temporall Invaſions *upon us: and thoſe Laws do impoſe* Penalties *on ſuch as ſhall any ways endeavour to* aſſiſt *him in ſuch* Invaſions; *ſo that being* forewarn'd, (*as ſome would have the word from* præmonere,) *we may the better be* fore-armed *for prevention of all their future attempts upon us, which is heartily wiſht by,*

MY LORD,

February 18. 167¾.

Your Lordſhip's moſt humble Servant,

John Pettus.

Hill. 4. Jacobi.

The Caſe of Præmunire;

OR,

The Conviction and Attainder of *Robert Lalor* Prieſt, being endited upon the Statute of 16. *Rich.* 2. *cap.* 5.

THIS *Robert Lalor*, being a Native of this Kingdome, received his Orders of Prieſthood above thirty years ſince at the hands of one *Richard Brady*, to whom the Pope had given the title of Biſhop of *Kilmore* in *Ulſter*; and for the ſpace of twenty years together his authority and credit was not mean within the Province of *Leimſter*. He had alſo made his name known in the Court of *Rome*, and held intelligence with the Cardinall who was Protector of this Nation, by means whereof he obtained the title and juriſdiction of *Vicar-general* of the See Apoſtolick within the Archbiſhoprick of

Of what quality and credit Robert Lalor was.

Dublin, and the Biſhopricks of *Kildare* and *Fernes*. This pretended juriſdiction, extending wel-nigh over all the Province of *Leimſter*, he exerciſed boldly and ſecurely many years together, untill the Proclamation was publiſhed, whereby all *Jeſuites* and *Prieſts* ordained by forrein authority were commanded to depart out of this kingdome by a certain time prefixed. After which time he began to lurk and to change his name, howbeit at laſt he was apprehended in *Dublin*, and committed to priſon in the Caſtle there. Upon his firſt Examination taken by the Lord Deputie himſelf, he acknowledged that he was a Prieſt, and ordained by a Popiſh Titulary Biſhop; that he had accepted the title and Office of the Pope's *Vicar-generall* in the three Dioceſes before named, and had exerciſed ſpirituall juriſdiction *in foro conſcientiæ*; and in ſundry other points he maintained and juſtified the Pope's authority: onely he ſaid, he was of opinion that the Pope had no power to excommunicate or depoſe his Majeſtie, becauſe the King is not of the Pope's Religion.

His apprehenſion and firſt examination.

The next Term after, he was indicted upon the Statute of 2 *Eliz.* enacted in this Realm againſt ſuch as ſhould wilfully and adviſedly maintain and uphold the juriſdiction of any forrein Prince or Prelate in any cauſes Eccleſiaſticall or Civil within this Realm. By which Statute the firſt offence of that kind is puniſhed with loſſe of goods, and one year's impriſonment; the ſecond offence incurreth the penaltie of the *Præmunire*; and the third offence is made high Treaſon. Upon this Indictment he was arraigned, convicted, and condemned, and ſo reſted in priſon during the next two Terms without any farther queſtion. He then made petition unto the Lord Deputie to be ſet at liberty: whereupon his Lordſhip cauſed him to be examined by Sir *Oliver Saint John*, Sir *James Fullerton*, Sir *Jefferie Fenton*, the Atturney and Solicitor generall. At firſt he made ſome evaſive and indirect anſwers; but at laſt voluntarily and freely he made this enſuing acknowledgement or confeſſion, which being ſet down in writing word for word as he made it, was adviſedly read by him, and ſubſcribed with his

His firſt inditement and conviction.

His ſecond examination.

his own hand, and with the hands of thoſe who took his examination; and afterwards he confirmed it by his oath before the Lord Deputie and Counſell.

The Confeſſion or Acknowledgement of Robert Lalor *Prieſt, made the* 22. *of* December 1606.

FIrſt, he doth acknowledge that he is not a lawfull *Vicar-generall* in the Dioceſes of *Dublin*, *Kildare* and *Fernes*, and thinketh in his conſcience that he cannot lawfully take upon him the ſaid Office. *His confeſſion or acknowledgement.*

Item, he doth acknowledge our Sovereign Lord King *James* that now is to be his lawfull, chief and Supreme Governour in all cauſes, as well Eccleſiaſticall as Civil, and that he is bound in conſcience to obey him in all the ſaid cauſes; and that neither the Pope, nor any other forrein Prelate, Prince or Potentate hath any power to controll the King in any cauſe Eccleſiaſticall or Civil within this Kingdome, or any of his Majeſtie's Dominions.

Item, he doth in his conſcience believe, that all Biſhops ordained and made by the King's authority within any of his Dominions are lawfull Biſhops, and that no Biſhop made by the Pope, or by any authority derived from the Pope, within the King's Dominions, hath any power or authoritie to impugn, diſannull or controll any Act done by any Biſhop made by his Majeſtie's authoritie as aforeſaid.

Item, he profeſſeth himſelf willing and ready to obey the King, as a good and obedient Subject ought to doe, in all his lawfull commandments, either concerning his function of Prieſthood, or any other dutie belonging to a good Subject.

After this Confeſſion made, the State here had no purpoſe to proceed againſt him ſeverely, either for his contempt of the Proclamation, or offence againſt the Law: So as he had more liberty then before, and many of his friends had acceſs unto him; who telling him what they heard of his Confeſſion, he proteſted unto them, that he had only acknowledged the King's *Civill* and *Temporall* power, without any confeſſion or admittance of his authoritie in *Spirituall cauſes*. This being reported unto the Lord Deputie by ſundry Gentlemen, who gave faith unto what he ſaid, his Lordſhip thought fit, that ſince he had incurred the pain of *Præmunire* by exerciſing Epiſcopall juriſdiction as *Vicar-generall* to the Pope, that he ſhould be attainted of that offence, as well to make him an example to others of his profeſſion, (for almoſt in every Dioceſe of this Kingdome there is a Titulary Biſhop ordained by the Pope;) as alſo that at the time of his Trial a juſt occaſion might be taken to publiſh the Confeſſion and acknowledgement which he had voluntarily made, ſigned, and confirmed by oath before the Lord Deputie and Councell, who have likewiſe ſubſcribed their names as witneſſes thereof.

Hereupon, in *Hillarie* Term 4 *Jacobi*, an Inditement was framed againſt him in the King's Bench upon the Statute of 16 *Rich.* 2. *cap.* 5. containing theſe ſeverall points.

The Inditement of Lalor upon the ſtat. of 16 Ric. 2.

1. That he had received a Bull or Brief purchaſed or procured in the Court of *Rome*, which Bull or Brief did touch or concern the King's Crown and dignity Royall, containing a Commiſſion of Authoritie from the Pope of *Rome* unto *Richard Brady* and *David Magragh* to conſtitute a *Vicar-generall* for the See of *Rome*, by the name of the *See Apoſtolick*, in the ſeverall Dioceſes of *Dublin*, *Kildare* and *Fernes*, within this Kingdome of *Ireland*.

2. That by pretext or colour of that Bull or Brief he was conſtituted *Vicar-generall* of the See of *Rome*, and took upon him the ſtyle and title of *Vicar-generall* in the ſaid ſeverall Dioceſes.

3. That he did exerciſe Eccleſiaſticall Juriſdiction as *Vicar-generall* of the See of *Rome*, by inſtituting divers perſons

to

to Benefices with cure of ſouls, by granting diſpenſations in cauſes Matrimonial, by pronouncing ſentences of divorce between divers married perſons, and by doing all other acts and things pertaining to Epiſcopal Juriſdiction, within the ſaid ſeveral Dioceſes, againſt our Sovereign Lord the King, his Crown and dignity Royal, and in contempt of his Majeſty, and diſheriſon of his Crown, and contrary to the form and effect of the Statute, *&c.*

To this Inditement *Lalor* pleaded *Not guilty*; and when the iſſue was to be tried, the name and reputation of the man, and the nature of the cauſe, drew all the principal Gentlemen both of the *Pale* and *Provinces* that were in town to the hearing of the matter. At what time a ſubſtantial Jury of the City of *Dublin* being ſworn for the trial, and the points of the Inditement being opened and ſet forth by the King's Serjeant; the Attorney general thought it not impertinent, but very neceſſary, before he deſcended to the particular evidence againſt the priſoner, to inform and ſatisfie the hearers in two Points.

1. What reaſon moved us to ground this Inditement upon the old Statute of 16 *Rich.* 2. rather then upon ſome other later Law made ſince the time of King *Henr.* 8.

2. What were the true cauſes of the making of this Law of 16 *Rich.* and other former Laws againſt *Proviſors* and ſuch as did appeal to the Court of *Rome* in thoſe times, when both the Prince and people of *England* did for the moſt part acknowledge the Pope to be the *thirteenth Apoſtle*, and onely oracle in matters of Religion, and did follow his doctrine in moſt of thoſe points wherein we now diſſent from him.

1. For the firſt Point, we did purpoſely forbear to proceed againſt him upon any later Law, to the end that ſuch as were ignorant might be informed, that long before King *Henr.* 8. was born, divers Laws were made againſt the Uſurpation of the Biſhop of *Rome* upon the rights of the Crown of *England*, well-nigh as ſharp and as ſevere as any Statutes which have been made in later times; and that therefore we made choice to proceed upon a Law made

more

more then 200 years paſt, when the King, the Lords and Commons, which made the Laws, and the Judges, which did interpret the Laws, did for the moſt part follow the ſame opinions in Religion which were taught and held in the Court of *Rome.*

The true cauſe of making the Statute of 16 R. 2. and other Statutes againſt Proviſors.

2. For the ſecond Point, the cauſes that moved and almoſt enforced the *Engliſh* Nation to make this, and other Statutes of the ſame nature, were of the greateſt importance that could poſſibly ariſe in any State. For theſe Laws were made to uphold and maintain the Sovereignty of the King, the Liberty of the people, the Common Law, and the Commonweal, which otherwiſe had been undermined and utterly ruined by the Uſurpation of the Biſhop of *Rome.*

For albeit the Kings of *England* were abſolute Emperours within their Dominions, and had under them as learned a Prelacy and Clergy, as valiant and prudent a Nobility, as free and wealthy a Commonalty, as any was then in Chriſtendom: yet if we look into the ſtories and records of theſe two Imperial Kingdoms, we ſhall find, that if theſe Laws of *Proviſion* and *Præmunire* had not been made, they had loſt the name of Imperial, and of Kingdoms too, and had been long ſince made Tributary Provinces to the Biſhop of *Rome*, or rather part of S. *Peter's* Patrimony in demeſne. Our Kings had had their Scepters wreſted out of their hands, their Crowns ſpurned off from their heads, their necks trod upon, they had been made Lacquays or Footmen to the Biſhop of *Rome*, as ſome of the Emperours and *French* Kings were; our Prelates had been made his Chaplains and Clerks, our Nobility his Vaſſals and Servants, our Commons his Slaves and Villains, if theſe Acts of manumiſſion had not freed them. In a word, before the making of theſe Laws, the flouriſhing Crown and Commonwealth of *England* was in extream danger to have been brought into moſt miſerable ſervitude and ſlavery, under colour of Religion and devotion to the See of *Rome.* And this was not onely ſeen and felt by the King, and much repined at and proteſted againſt by the Nobility, but the Commons, the general multitude of the Subjects, did exclaim and cry

out

out upon it. For the Commons of *England* may be an example unto all other Subjects in the world in this, that they have ever been tender and ſenſible of the wrongs and diſhonours offered unto their Kings, and have ever contended to uphold and maintain their honour and Sovereignty. And their faith and loyaltie hath been generally ſuch, (though every Age hath brought forth ſome particular monſters of diſloyaltie) as no pretence of zeal or religion could ever withdraw the greater part of the Subjects to ſubmit themſelves to a forrein yoke, no not when Popery was in her height and exaltation; whereof this Act and divers others of the ſame kind are clear and manifeſt teſtimonies. For this Act of 16 *Rich.* 2. was made at the prayer of the Commons: which prayer they make not for themſelves, neither ſhew they their own ſelf-love therein, (as in other Bills which contain their Grievances) but their love and zeal to the King and his Crown. When after the *Norman* Conqueſt they importuned their Kings for the *Great Charter*, they ſought their own Liberties; and in other Bills preferred commonly by the Commons againſt *Sbriefs*, *Eſcheators*, *Purveyors*, or the like, they ſeek their own profit and eaſe: but here their Petition is to the King, to make a Law for the defence and maintenance of his own honour. They complain, That by Bulls and Proceſſes from *Rome* the King is deprived of that Juriſdiction which belongs of right to his Imperial Crown: That the King doth loſe the ſervice and counſel of his Prelates and learned men by tranſlations made by the Biſhop of *Rome*: That the King's Laws are defeated at *his* will, the Treaſure of the Realm is exhauſted and exported to enrich *his* Court: And that by thoſe means the Crown of *England*, which hath ever been free and ſubject unto none, but immediately unto God, ſhould be ſubmitted unto the Biſhop of *Rome*, to the utter deſtruction of the King and the whole Realm; which God defend, ſay they: and thereupon, out of their exceeding zeal and fervency, they offer to live and die with the King in defence of the liberties of the Crown. And laſtly, they pray and require the King by way of juſtice, to examine all the

The Statute of Præmunire made at the prayer of the Commons.

The effect of the Statute of 16 *R.* 2. *c.* 5.

the Lords in Parliament, what they thought of theſe manifeſt wrongs and uſurpations, and whether they would ſtand with the King in defence of his Royall liberties, or no. Which the King did according to their Petition: and the Lords Spiritual and Temporal did all anſwer, that theſe Uſurpations of the Biſhop of *Rome* were againſt the liberties of the Crown, and that they were all bound by their allegeance to ſtand with the King, and to maintain his honour and Prerogative. And thereupon it was enacted with a full conſent of the three Eſtates, That ſuch as ſhould purchaſe in the Court of *Rome*, or elſewhere, any *Bulls* or *Proceſſes*, or other things which might touch the King in his Crown and dignitie Royall, and ſuch as ſhould bring them into the Realm, and ſuch as ſhould receive them, publiſh them, or execute them, they, their Notaries, Proctors, Maintainors and Counſellors, ſhould be all out of the King's protection, their lands and goods forfeited to the King, their bodies attached if they might be found, or elſe proceſſe of *Præmunire facias* to be awarded againſt them. Upon theſe motives, and with this affection and zeal of the people, was the Statute of 16 *Rich.* 2. made, whereupon we have framed our Inditement.

Now let us look higher, and ſee whether the former Laws made by King *Edw.* 1. and King *Edw.* 3. againſt the Uſurpation of the Biſhop of *Rome* were not grounded upon the like cauſe and reaſon. The Statute of 38 *Edw.* 3. *cap.* 1. expreſſing the miſchiefs that did ariſe by *Breves* of *Citation*, which drew the bodies of the people, and by *Bulls* of *Proviſion* and *Reſervation* of Eccleſiaſticall Benefices, which drew the wealth of the Realm, to the Court of *Rome*, doth declare, that by theſe means the ancient Laws, Cuſtomes and Franchiſes of the Realm were confounded, the Crown of our Sovereign Lord the King diminiſhed, and his perſon falſely defamed, the Treaſure and riches of the land carried away, the Subjects of the Realm moleſted and impoveriſhed, the Benefices of Holy Church waſted and deſtroyed, Divine ſervice, Hoſpitalitie, Almſdeeds, and other works of charitie neglected.

The effect of the Statute of 38 Edw. 3. cap. 1.

Again,

Again, 27 *Edw.* 3. *cap.* 1. upon the grievous and clamorous complaint (for that phraſe is there uſed) of the great men and Commons touching *Citations* and *Proviſions*, it is enacted, That the offenders ſhall forfeit their lands, goods and chattels, and their bodies be impriſoned and ranſomed at the King's will. But in the Statute of 25 *Edw.* 3. wherein the firſt Law againſt *Proviſors* made 25 *Edw.* 1. is recited, there is a larger declaration of theſe inconveniences then in the two laſt Acts before mentioned. For there all the Commons of the Realm do grievouſly complain, That whereas the Holy Church of *England* was firſt founded in eſtate of Prelacie by the Kings and Nobilitie of that Realm, and by them endowed with great poſſeſſions and revenues in lands, rents and Advowſons, to the end the people might be informed in Religion, Hoſpitality might be kept, and other works of Charitie might be exerciſed within the Realm; And whereas the King and other founders of the ſaid Prelacies were the rightfull Patrons and Adowees thereof, and upon avoidance of ſuch Eccleſiaſticall promotions had power to advance thereunto their kinſmen, friends, and other learned men of the birth of that Realm, which being ſo advanced became able and worthy perſons to ſerve the King in Counſell, and other places in the Commonweal: The Biſhop of *Rome*, uſurping the Seigniory of ſuch poſſeſſions and Benefices, did give and grant the ſame to Aliens, which did never dwell in *England*, and to Cardinals, which might not dwell there, as if he were rightfull Patron of thoſe Benefices; whereas by the Law of *England* he never had right to the Patronage thereof; whereby in ſhort time all the Spirituall promotions in the Realm would be ingroſſed into the hands of Strangers, Canonicall elections of Prelates would be aboliſhed, works of Charity would ceaſe, the founders and true patrons of Churches would be diſinherited, the King's Counſell would be weakened, the whole Kingdome impoveriſhed, and the Laws and rights of the Realm deſtroyed. Upon this complaint it was reſolved in Parliament, That theſe oppreſſions and grievances ſhould not be ſuffered in any manner: and therefore it was enacted,

The Statute of 27 Ed. 3. cap. 1.

The Statute of 25 Edw. 3. reciting the Statute of 25 Ed. 1.

That the King and his Subjects ſhould thenceforth enjoy the rights of patronage; That free elections of Archbiſhops, Biſhops, and other Prelates elective, ſhould be made according to the ancient grants of the King's Progenitors and their founders; That no *Bulls* of *Proviſion* ſhould be put in execution, but that the *Proviſors* ſhould be attached, fined, and ranſomed at the King's will, and withall impriſoned till they had renounced the benefits of their *Bulls*, ſatisfied the partie grieved, and given ſureties not to commit the like offence again.

Now, Maſter *Lalor*, what think you of theſe things? Did you believe that ſuch Laws as theſe had been made againſt the Pope 200, 250, 300 years ſince? Was King *Hen.* 8. the firſt Prince that oppoſed the Pope's uſurped Authority? Were our Proteſtants the firſt Subjects that ever complained of the Court of *Rome*? Of what Religion, think you, were the propounders and enacters of theſe Laws? Were they good Catholicks? or good Subjects? or what were they? You will not ſay they were Proteſtants, for you will not admit the Reformed Religion to be ſo ancient as thoſe times: neither can you ſay they were undutifull, for they ſtrove to uphold their liege Lord's Sovereignty. Doubtleſs the people in thoſe days did generally embrace the vulgar errours and ſuperſtitions of the *Romiſh* Church, and in that reſpect were Papiſts as well as you: but they had not learned the new doctrine of the Pope's Supremacie, and tranſcendent authority over Kings; they did not believe he had power to depoſe Princes, and diſcharge Subjects of their allegeance, to abrogate the fundamentall Laws of Kingdomes, and to impoſe his Canons as binding laws upon all nations, without their conſents: they thought it a good point of Religion to be good Subjects, to honour their King, to love their country, and to maintain the laws and liberties thereof, howſoever in other points they did erre and were miſs-led with the Church of *Rome*.

Theſe Laws made by ſuch as did profeſſe the Romiſh Religion.

So as now (Maſter *Lalor*) you have no excuſe, no evaſion, but your conſcience muſt condemn you as well as the Law; ſince the Law-makers in all Ages, and all religious Papiſts and Proteſtants, do condemn you: unleſs you think your

your ſelf wiſer then all the Biſhops that were then in *England*, or all the Judges who in thoſe days were learned in the Civil and Canon Laws as well as in the Common Laws of *England*. But you, being an *Iriſh* man, will ſay, perhaps, theſe Laws were made in *England*, and that the *Iriſh* Nation gave no particular conſent thereunto, onely there was an implicite conſent wrapt and folded up in generall terms given in the Statute of 10 *Hen.* 7. *cap.* 22. whereby all Statutes made in *England* are eſtabliſhed and made of force in *Ireland*. Aſſuredly, though the firſt Parliament held in *Ireland* was after the firſt Law againſt *Proviſors* made in *England*, yet have there been as many particular Laws made in *Ireland* againſt *Proviſions*, *Citations*, *Bulls* and *Breves* of the Court of *Rome*, as are to be found in all the Parliament-Rolls in *England*. What will you ſay if in the ſelf ſame Parliament of 10 *Hen.* 7. *cap.* 5. a ſpecial Law were made, enacting, authorizing and confirming in this Realm all the Statutes of *England* made againſt *Proviſors*? if before this the like Law were made 32 *Hen.* 6. *cap.* 4. and again 28 *Hen.* 6. *cap.* 30. the like? and before that, the like Law were made 40 *Edw.* 3. *cap.* 13. in the famous Parliament of *Kilkenny*? if a Statute of the ſame nature were made 7 *Edw.* 4. *cap.* 2. and a ſeverer Law then all theſe 16 *Edw.* 4. *cap.* 4. That ſuch as purchaſe any *Bulls* of *Proviſion* in the Court of *Rome*, as ſoon as they have publiſhed or executed the ſame to the hurt of any incumbent, ſhould be adjudged traitors? Which Act, if it be not repealed by the Statute of Queen *Mary*, may terrifie Maſter *Lalor* more then all the Acts which are before remembred.

Laws againſt Proviſors made in Ireland.

But let us aſcend yet higher, to ſee when the Pope's Uſurpation, which cauſed all theſe complaints, began in *England*, with what ſucceſſe it was continued, and by what degrees it roſe to that height, that it well-nigh over-topp'd the Crown: whereby it will appear whether he had gained a circle by preſcription, by a long and quiet poſſeſſion before the making of theſe Laws.

When the Pope began firſt to uſurp upon the liberties of the Crown of England.

The firſt encroachment of the Biſhop of *Rome* upon the liberties of the Crown of *England* was made in the time of

King *William* the *Conqueror*. For before that time the Pope's Writ did not run in *England*, his *Bulls* of *Excommunication* and *Proviſion* came not thither, no *Citations*, no *Appeals* were made from thence to the Court of *Rome*. Our Archbiſhops did not purchaſe their Palls there, neither had the Pope the *Inveſtiture* of any of our Biſhopricks. For it is to be obſerved, that as under the Temporal Monarchy of *Rome Britany* was one of the laſt Provinces that was wone, and one of the firſt that was loſt again: ſo under the Spiritual Monarchy of the Pope of *Rome England* was one of the laſt Countries of Chriſtendom that received his yoke, and was again one of the firſt that did reject and caſt it off. And truly, as in this, ſo in divers other points, the courſe of this Spiritual Monarchy of the Pope may be aptly compared with the courſe of the Temporal Monarchies of the world. For as the Temporal Monarchies were firſt raiſed by intruſion upon other Princes and Commonweals; ſo did this Spiritual Prince (as they now ſtyle him) grow to his greatneſs by uſurping upon other States and Churches. As the Temporal Monarchies, following the courſe of the Sun, did riſe in the Eaſt, and ſettle in the Weſt; ſo did the Hierarchy or government of the Church. Of the four Temporal Monarchies the firſt two were in *Aſia*, the latter two in *Europe*; but the *Roman* Monarchy did ſurpaſs and ſuppreſs them all: So were there four great Patriarchs, or Eccleſiaſtical Hierarchies, two in the Eaſt, and two in the Weſt; but the *Roman* Patriarch exalted himſelf, and uſurped a Supremacy above them all. And as the riſing of the *Roman* Empire was moſt oppoſed by the State of *Carthage* in *Africa*, (*æmula Romæ Carthago*;) ſo the Council of *Carthage* and the *African* Biſhops did firſt forbid Appeals to *Rome*, and oppoſed the Supremacy of the Pope. And doth not *Daniel's* Image, whoſe head was of gold, and legs and feet of iron and clay, repreſent this Spiritual Monarchy as well as the Temporal, whereas the firſt Biſhops of *Rome* were golden Prieſts, though they had but wooden Chalices, and that the Popes of later times have been for the moſt part worldly and earthly-minded? And as the Northern Nations firſt revolted

A compariſon of the ſpiritual Monarchy of the Church with the temporal Monarchies of the world.

volted from the *Roman* Monarchy, and at laſt brake it in pieces; have not the North and North-weſt Nations firſt fallen away from the Papacy? and are they not like in the end to bring it to ruine?

The Pope had no juriſdiction in England in the time of the Britans.

But to return to our purpoſe; The Biſhop of *Rome* before the firſt *Norman* Conqueſt had no juriſdiction in the Realm of *England*, neither in the time of the *Britans*, nor in the time of the *Saxons*. *Eleutherius* the Pope within leſs then 200 years after *Chriſt* writes to *Lucius* the *Britiſh* King, and calls him *God's Vicar* within his Kingdom: which title he would not have given to that King, if himſelf, under pretence of being *God's Vicar-generall* in earth, had claimed juriſdiction over all Chriſtian Kingdoms.

Pelagius the Monk of *Bangor*, about the year 400, being cited to *Rome*, refuſed to appear upon the Pope's citation, affirming that *Britain* was neither within his Dioceſe nor his Province.

After that, about the year 600, *Auguſtine* the Monk was ſent by *Gregory* the Great into *England* to convert the *Saxons* to Chriſtian Religion; the *Britiſh* Biſhops then remaining in *Wales* regarded not his Commiſſion nor his doctrine, as not owing any duty nor having any dependency on the Court of *Rome*, but ſtill retained their ceremonies and traditions which they received from the Eaſt Church upon the firſt plantation of the Faith in that Iſland, being divers and contrary to thoſe of the Church of *Rome*, which *Auguſtine* did endeavour to impoſe upon them.

The like doth *Beda* write of the *Iriſh* Prieſts and Biſhops. For in the year 660. he reporteth, that a Convocation of the Clergy being called by King *Oſwif.* there roſe a diſputation between *Colman* one of our *Iriſh* Saints, then preſent in that Synod, and *Wilfrid* a *Saxon* Prieſt, touching the obſervation of *Eaſter*, wherein the *Britiſh* and *Iriſh* Churches did then differ from the Church of *Rome*. *Colman*, for the celebration of *Eaſter* uſed in *Ireland*, affirmed it was the ſame *quod beatus Evangeliſta Joannes, diſcipulus ſpecialiter à Domino dilectus, in omnibus quibus præerat Eccleſiis celebrâſſe legitur.* On the other part *Wilfrid* alledged, that all the Churches

Churches of Chriſtendom did then celebrate *Eaſter* after the *Roman* manner, except the Churches of the *Britans* and *Pictis, qui contra totum orbem* (ſaid he) *ſtulto labore pugnant.* Whereunto *Colman* replied, *Miror quare ſtultum laborem appellas, in quo tanti Apoſtoli qui ſuper pectus Domini recumbere dignus fuit exempla ſectamur. Numquid reverendiſſimum patrem noſtrum Columbam & ejus ſucceſſores, viros à Deo dilectos, divinis paginis contraria ſapuiſſe aut egiſſe credendum eſt?* In this diſputation or dialogue two things may be obſerved: firſt, that at this time the authority of the Biſhop of *Rome* was of no eſtimation in theſe Iſlands: next, that the Primitive Churches of *Britany* and *Ireland* were inſtituted according to the form and diſcipline of the Eaſt Churches, and not of the Weſt, and planted by the Diſciples of *John*, and not of *Peter*. Thus much for the time of the *Britans*. For the *Saxons*, though King *Ina* gave the *Peter-pence* to the Pope, partly as Almes, and partly in recompence of a houſe erected in *Rome* for entertainment of *Engliſh* pilgrims; yet it is certain that *Alfred* and *Athelſtane*, *Edgar* and *Edmund*, *Canutus* and *Edward* the *Confeſſor*, and divers other Kings of the *Saxon* race, did give all the Biſhopricks in *England per annulum & baculum*, without any other ceremony, as the Emperour and the *French* King and other Chriſtian Princes were wont to doe. They made alſo ſeveral Laws for the government of the Church: Among others Saint *Edward* begins his Laws with this proteſtation, that it is his Princely charge, *ut populum Domini, & ſuper omnia ſanctam Eccleſiam, regat & gubernet.* And King *Edgar*, in his Oration to his *Engliſh* Clergy, *Ego* (ſaith he) *Conſtantini, vos Petri gladium habetis: jungamus dextras, & gladium gladio copulemus, ut ejiciantur extra caſtra leproſi, & purgetur ſanctuarium Domini.* So as the Kings of *England* with their own Clergy did govern the Church, and therein ſought no aid of the Court of *Rome*. And the troth is, that though the Pope had then long hands, yet he did not extend them ſo far as *England*, becauſe they were full of buſineſs nearer home in drawing the Emperour and the *French* King under his yoke. But upon the Conqueſt made by the *Normans*, he apprehended

ded the firſt occaſion to uſurp upon the Liberties of the Crown of *England*. For the *Conquerour* came in with the Pope's Banner, and under it wone the battel which got him the garland: and therefore the Pope preſumed he might boldly pluck ſome flowers from it, being partly gained by his countenance and bleſſing. Hereupon he ſent two Legates into *England*, which were admitted and received by the *Conquerour*. With them he called a Synod of the Clergy, and depoſed old *Stigand* Archbiſhop of *Canterbury*, becauſe he had not purchaſed his Pall in the Court of *Rome*; he diſplaced many Biſhops and Abbots to place his *Normans* in their rooms. And amongſt the reſt it is to be noted, that the King having earneſtly moved *Wolſtan* Biſhop of *Worceſter*, being then very aged, to give up his Staff, his anſwer was, that he would give up his Staff onely to him of whom he firſt received the ſame. And ſo the old man went to Saint *Edward*'s Tomb, and there offered up his Staff and Ring, with theſe words, *Of thee, O holy Edward, I received my Staff and my Ring, and to thee I do now ſurrender the ſame again.* Which proves, that before the *Norman* Conqueſt the King did inveſt his Biſhops *per annulum & baculum*, as I ſaid before.

The firſt uſurpation of the Pope upon the Crown began in the time of King William the Conquerour.

By ſending Legates into England.

Thus we ſee, by the admiſſion of the Pope's Legates, the firſt ſtep or entry made into his uſurped juriſdiction in *England*. Albeit the King ſtill retained the abſolute power of inveſting Biſhops, and ſeemed onely to uſe the advice and aſſiſtance of the Legates in Eccleſiaſtical matters; for that no Decree paſſed or was put in execution without his Royal aſſent thereunto. Beſides, how far forth he ſubmitted himſelf to the Pope, it appeareth by a ſhort Epiſtle which he wrote to *Gregory* the 7. in this form. *Excellentiſſimo Sanctæ Eccleſiæ Paſtori, Gregorio, gratiâ Dei Anglorum Rex & Dux Normannorum Willielmus ſalutem cum amicitia. Hubertus Legatus tuus, Religioſe Pater, ad me veniens ex tua parte me admonuit, ut tibi & ſucceſſoribus tuis fidelitatem facerem, & de pecunia quam anteceſſores mei ad Romanam Eccleſiam mittere ſolebant melius cogitarem. Unum admiſi, alterum non admiſi: fidelitatem facere nolui, nec volo, quia nec ego promiſi, nec anteceſſores*

cessores meos antecessoribus tuis id fecisse comperio. Pecunia tribus fere annis, in Galliis me agente, negligenter collecta est: nunc vero divinâ misericordiâ me in Regnum meum reverso, quod collectum est per præfatum Legatum mittetur; & quod reliquum est, per Legatos Lanfranci Archiepiscopi fidelis nostri, cum opportunum fuerit, transmittetur, &c.

In the time of William Rufus the Pope attempted to draw Appeals to Rome, but prevailed not.

But in the time of his next Successour King *William Rufus* they attempted to pass one degree farther, that is, to draw *Appeals* to the Court of *Rome*. For *Anselme* being made Archbishop of *Canterbury*, and being at some difference with the King, besought his leave to goe to *Rome*, under pretence of fetching his Pall. The King, knowing he would appeal to the Pope, denied him leave to goe, and withall told him, That none of his Bishops ought to be subject to the Pope, but the Pope himself ought to be subject to the Emperour; and that the King of *England* had the same absolute liberties in his Dominions as the Emperour had in the Empire; and that it was an ancient custome and law in *England*, used time out of mind before the Conquest, that none might appeal to the Pope without the King's leave; and that he that breaketh this law or custome doth violate the Crown and dignity Royal, and he that violates my Crown (saith he) is mine enemy, and a traitour. How answer you this, quoth the King? Christ himself answers you, saith the Archbishop, *Tu es Petrus, & super hanc petram, &c.* Wherewith the King was nothing satisfied. And thereupon *Anselme* departing out of the Realm without licence, the King seized his Temporalties, and became so exasperate and implacable towards the Bishop, as he kept him in perpetual exile during his Reign, albeit great intercession were made for his return, as well by the Pope as the King of *France*.

In the time of K. Henry the first the Pope usurpeth the donation of Bishopricks, &c.

In the time of the next King *Hen.* 1. though he were a learned and a prudent Prince, yet they sought to gain a farther point upon him, and to pluck a flower from his Crown of greater value, namely the Patronage and Donation of Bishopricks, and all other Benefices Ecclesiasticall. For *Anselme* being revok'd and re-established in the See of *Canterbury*, the Bishopricks of *Salisbury* and *Hereford* fell void, which

which the King beſtowed on two of his Chaplains. But *Anſelme* their Metropolitan did refuſe to conſecrate them, ſo as the Archbiſhop of *York* was fain to perform that Office, who with the chief of the *Engliſh* Clergie ſtood with the King, and withſtood *Anſelme*. Hereupon the King requires him to doe his homage: the Biſhop denies it. The King demands of him whether the patronage and inveſtiture of all Biſhopricks were not his rightfull inheritance: the Biſhop ſaid it was not his right, becauſe Pope *Urban* had lately made a Decree that no Lay perſon ſhould give any Eccleſiaſticall Benefice. This was the firſt queſtion that ever was made touching the King of *England*'s right of patronage and donation of Biſhopricks within his dominions. This new queſtion cauſed many meſſages and embaſſages to *Rome*. At laſt the King writes plainly to the Pope, *Notum habeat Sanctitas veſtra, quod me vivente (Deo auxiliante) dignitates & uſus regni noſtri non minuentur, & ſi ego (quod abſit) in tanta me directione ponerem, magnates mei, imo totius Angliæ populus id nullo modo pateretur.* Beſides, *William de Warrenaſt*, the King's procurator in the Court of *Rome*, told the Pope that the King would rather loſe his Kingdome then he would loſe the donation of Biſhopricks. The Pope anſwered, Know you preciſely, Sir, I ſpeak it before God, that for the redemption of my head I would not ſuffer him to enjoy it.

Hiſtor. Tornacenſis MS. in Archiv. Rob Cotton Eq. Aur.

After this *Anſelme* being received into the King's favour, in a Synod of the *Engliſh* Clergie holden at *London* in the year 1107. a Decree was made, *Cui annuit Rex Henricus*, ſaith *Matth. Paris*, that from thenceforth *nunquam per donationem Baculi Paſtoralis vel Annuli quiſquam de Epiſcopatu vel Abbathia per Regem vel quamlibet laicam manum, inveſtietur in Anglia.* In recompence whereof the Pope yielded this favour to the King, that thenceforth no Legate ſhould be ſent from the Pope's ſide into *England*, unleſs the King required it; and that the Archbiſhop of *Canterbury* for the time being ſhould be for ever *Legatus natus*: and *Anſelme*, for the honour of his See, obtained, that the Archbiſhop of *Canterbury* ſhould in all generall Councils ſit at the Pope's foot, *tanquam alterius orbis Papa.* Notwithſtanding, as the ſuc-

ceeding Popes kept not their promiſe touching the ſending of Legates, ſo this ſelf-ſame King, after the death of *Anſelme*, broke the Decree touching the inveſtiture of the Biſhops. For he gave the Archbiſhoprick of *Canterbury* to *Rodolph* Biſhop of *London*, ſaith *Matth. Paris*, *Et illum per Annulum & Paſtoralem Baculum inveſtivit*; as before he had inveſted *Willielmum Gifford* in the Biſhoprick of *Winchiſter*, *contra novi Concilii ſtatuta*, as the ſame Authour reporteth.

In the time of King Stephen the Pope gained Appeals to the Court of Rome.

The times of the next ſucceeding King *Stephen* were full of Civil diſſenſions, which made the land well-nigh waſte, ſo as Saint *Peter*'s Succeſſour could not take any fiſh in ſuch troubled waters. Yet during this King's reign they wone that point of juriſdiction which they attempted to get, but failed thereof, in the time of King *William Rufus*; namely, That Appeals might be made to the Court of *Rome*. For in a Synod at *London* ſummoned by *Henr.* Biſhop of *Wincheſter*, the Pope's Legate, it was decreed, That Appeals ſhould be made from Provinciall Councils to the Pope. Before that time *Appellationes in uſu non erant*, ſaith a Monk of that time, *donec Henricus Winton. Epiſcopus malo ſuo, dum Legatus eſſet, crudeliter intruſit.* Thus did the Pope uſurp three main points of Juriſdiction upon three ſeverall Kings after the Conqueſt, (for of *William Rufus* he could win nothing:) namely, upon the *Conquerour*, the ſending of Legates or Commiſſioners to hear and determine Eccleſiaſticall cauſes; upon *Hen.* 1. the Donation and Inveſtiture of Biſhopricks and other Benefices; upon King *Stephen*, the Appeals to the Court of *Rome*.

In the time of K. Henry 2. the Pope claimed exemption of Clerks from the Secular power.

Now are we come to King *Hen.* 2. in whoſe time they made a farther encroachment upon the Crown, whereby they endeavoured to make him but half a King, and to take away half his Subjects, by exempting all Clerks from Secular power. Hereupon roſe that long and great contention between King *Hen.* 2. and *Thomas Becket*, which on *Becket*'s behalf may be rightly termed rebellion and treaſon: the juſt cauſe and ground whereof was the ſame that made the late difference between the Pope and the *Venetians*. For a

Prieſt

Prieſt had committed a foul murther, and being thereof indicted and convicted, prayed the benefit of his Clergie; which being allowed unto him, he was delivered to the Biſhop of *Salisbury*, being his Ordinary, to make his purgation: which the murtherer failing to doe, ſhould by the Law have been degraded, and delivered back to the Secular power. But the Biſhop contemning the Law of the land, to enlarge the liberties of the Church, ſent his priſoner to *Thomas Becket* then Archbiſhop of *Canterbury*, who ſhifted him into an Abbey, and ſo reſcued him from the capital puniſhment he had juſtly deſerved. *A brief of Th. Becket's troubles, or rather true ſtate.*

This gap of impunitie being once opened, the Clergie grew ſo outrageous, as the King was informed of a hundred murthers committed by Clerks, and yet not one of them executed for the ſame; for that the Archbiſhop had protected them all after the ſame manner. For this the King was juſtly incenſed againſt the Archbiſhop, who juſtified his doing herein. Whereupon a common Council as well of the Biſhops as of the Nobility was called, wherein they did revive and re-eſtabliſh the ancient laws and cuſtomes of the Kingdome for the government of the Clergie, and ordering of cauſes Eccleſiaſticall, whereof theſe were the principal Heads or Articles. *The Conſtitutions of Claringdon.*

1. That no Biſhop nor Clerk ſhould depart the Realm without the King's licence; and that ſuch as obtained licence ſhould give ſureties that they ſhould procure no hurt or damage to the King or Realm during their abſence in forrein parts.

2. That all Biſhopricks and Abbeys being void ſhould remain in the King's hands as his own demeſnes, untill he had choſen and appointed a Prelate thereunto; and that every ſuch Prelate ſhould doe his homage to the King before he were admitted unto the place.

3. That Appeals ſhould be made in cauſes Eccleſiaſticall in this manner: from the Archdeacon to the Ordinary, from the Ordinary to the Metropolitan, from the Metropolitan to the King, and no farther.

4. That *Peter-pence* ſhould be paid no more to the Pope, but to the King.

5. That if any Clerk ſhould commit Felony, he ſhould be hanged; if Treaſon, he ſhould be drawn and quartered.

6. That it ſhould be adjudged high Treaſon to bring in *Bulls* of *Excommunication* whereby the Realm ſhould be curſed.

7. That no Decree ſhould be brought from the Pope to be executed in *England*, upon pain of impriſonment and confiſcation of goods.

To theſe and other Conſtitutions of the like nature made at *Claringdon* all the reſt of the Biſhops and great men did ſubſcribe, and bound themſelves by oath to obſerve the ſame abſolutely; onely the Archbiſhop would not ſubſcribe, and ſwear, but with a *Saving, ſalvo ſuo ordine & honore ſanctæ Eccleſiæ:* yet at laſt he was content to make the like abſolute Subſcription and Oath as the reſt had done, but preſently he repented; and to ſhew his repentance ſuſpended himſelf from celebrating Maſſe, till he had received abſolution from the Pope. Then he began to maintain and juſtifie the exemption of Clerks again; whereat the King's diſpleaſure was kindled anew: and then the Archbiſhop once again promiſed abſolute obedience to the King's Laws. (See the ficklenes and mutability of your conſtant Martyr.) The King, to bind faſt this ſlippery *Proteus*, called a Parliament of the Biſhops and Barons, and ſending for the Roll of thoſe Laws, required all the Biſhops to ſet their Seals thereunto. They all aſſented but the Archbiſhop, who proteſted he would not ſet his Seal, nor give allowance to thoſe Laws. The King, being highly offended with his rebellious demeanour, required the Barons in Parliament to give Judgement of him, who being his Subject would not be ruled by his Laws: *Citò facite mihi juſtitiam de illo, qui homo meus ligeus eſt & ſtare Juri in Curia mea recuſat.* Whereupon the Barons proceeding againſt him, and being ready to condemn him; I prohibit you (quoth the Archbiſhop) in the name of Almighty God to proceed againſt me, for I have appealed to the Pope; and ſo departed in contempt of that high Court, *Omnibus clamantibus*, ſaith *Hoveden*, *Quò progrederis, proditor? exſpecta & audi judicium tuum.* After this he lurked ſecretly

ly near the Sea-ſhore, and changing his apparell and name (like a Jeſuit of theſe times,) he took ſhipping with a purpoſe to fly to *Rome*: but his paſſage being hindered by contrary winds, he was ſummoned to a Parliament at *Northampton*, where he made default wilfully; for which contempt his Temporalties were ſeized, nd his body being attach'd, he was charged with ſo great an account to the King, as that he was found in arrear thirty thouſand marks, and committed to priſon; whence he found meens to eſcape ſhort'y after, and to paſſe out of the Realm to *Rome*. He was no ſooner gone, but the King ſends Writs to all the Sheriffs in *England* to attach the bodies of all ſuch as made any Appeals to the Court of *Rome*. Hereupon many meſſages and letters paſſing to and fro, all the Suffragans of *Canterbury* joyn in a letter to the Pope, wherein they condemn the fugitive Archbiſhop, and juſtifie the King's proceedings. Upon this the Pope ſends two Legates to the King being then in *Normandy*, to mediate for the Archbiſhop. They with the mediation of the *French* King, prevailed ſo far with King *Henry*, as that he was pleaſed to accept his ſubmiſſion once again, and promiſed the King of *France*, that if he would be obedient to his Laws, he ſhould enjoy as ample liberties as any Archbiſhop of *Canterbury* ever had: and ſo ſent him into *England* with recommendation unto the young King his Son,, then lately crowned; who, hearing of his coming, commanded him to forbear to come to his preſence, untill he had abſolved the Archbiſhop of *York* and others, whom he had excommunicated for performing their duties at his Coronation. The Archbiſhop returned anſwer, that they had done him wrong in uſurping his office; yet if they would take a ſolemn oath to become obedient to the Pope's commandment in all things concerning the Church, he would abſolve them. The Biſhops underſtanding this, proteſted they would never take that oath unleſs the King willed them ſo to doe. King *Henry* the Father being hereof advertiſed into *France*, did riſe into great paſſion and choler, and in the hearing of ſome of his ſervants uttered words to this effect; *Will no man revenge me of mine*

enemies?

enemies? Whereupon the 4 Gentlemen named in the Stories of that time paſſed into *England*, and firſt moving the Archbiſhop to abſolve the Biſhops whom he had excommunicated for performing their Duties at the young King's Coronation, and receiving a peremptory anſwer of deniall from the Archbiſhop, they laid violent hands upon him, and ſlew him: for which the King was fain not onely to ſuffer corporal penance, but in token of his humiliation to kiſſe the knee of the Pope's Legate. And this is the abridgement of *Becket*'s Troubles, or rather Treaſons, for which he was celebrated for ſo famous a Martyr. And thus you ſee by what degrees the Court of *Rome* did within the ſpace of one hundred and odde years uſurp upon the Crown of *England* four points of Juriſdiction. *Viz.* Firſt, ſending out of Legates into *England*. Secondly, drawing of Appeals to the Court of *Rome*. Thirdly, donation of Biſhopricks and other Eccleſiaſticall Benefices. And fourthly, exemption of Clerks from the Secular power. And you ſee withall how our Kings and Parliaments have from time to time oppoſed and withſtood this unjuſt Uſurpation.

Four points of juriſdiction uſurped upon the crown of England by the Pope before the reign of K. John.

Now then the Biſhop of *Rome* having claimed and welnigh recovered full and ſole juriſdiction in all cauſes Eccleſiaſticall, and over all perſons Eccleſiaſticall, with power to diſpoſe of all Eccleſiaſticall Benefices in *England*, whereby he had upon the matter made an abſolute conqueſt of more then half the Kingdome, (for every one that could read the Pſalm of *Miſerere* was a Clerk, and the Clergie poſſeſſed the moietie of all temporall poſſeſſions,) there remained now nothing to make him owner and proprietor of all, but to get a ſurrender of the Crown, and to make the King his Farmer, and the people his Villains, which he fully accompliſhed and brought to paſſe in the times of King *John* and of *Hen.* 3.

The cauſe of the quarrell between K. John and the Pope.

The quarrell between the Pope and King *John*, which wreſted the Scepter out of his hand, and in the end brake his heart, began about the Election of the Archbiſhop of *Canterbury*. I call it Election, and not Donation or Inveſtiture:

ture: for the manner of inveſting of Biſhops by the Staffe and Ring after the time of King *Hen.* 1. was not any more uſed, but by the King's licence they were Canonically elected, and being elected, the King gave his Royall aſſent to their election, and by reſtitution of their Temporalties did fully inveſt them. And though this courſe of election began to be in uſe in the time of *Rich.* 1. and *Hen.* 2. yet I find it not confirmed by any Conſtitution or Charter before the time of King *John*, who by his Charter dated the fifteenth of *January*, in the ſixteenth year of his Reign, granted this privilege to the Church of *England* in theſe words, *viz.* *Quod qualiſcunque conſuetudo temporibus prædeceſſorum noſtrorum hactenus in Eccleſia Anglicana fuerit obſervata, & quidquid juris nobis hactenus vindicaverimus, de cætero in univerſis & ſingulis Eccleſiis & Monaſteriis, Cathedralibus & Conventualibus, totius regni Angliæ liberæ ſint in perpetuum electiones quorumcumque Prælatorum, majorum & minorum. Salvâ nobis & hæredibus noſtris cuſtodiâ Eccleſiarum & Monaſteriorum vacantium quæ ad nos pertinent. Promittimus etiam quod nec impediemus nec impediri permittemus per miniſtros noſtros, nec procurabimus, quin in univerſis & ſingulis Monaſteriis & Eccleſiis, poſtquam vacuerint prælaturæ, quemcunque voluerint libere ſibi præficiant electores Paſtorum, petitâ tamen à nobis priùs & hæredibus noſtris licentiâ eligendi, quam non denegabimus nec differemus. Et ſimiliter, poſt celebratam electionem, noſter requiratur aſſenſus, quem non denegabimus, niſi adverſus eandem rationale propoſuerimus, & legitimè probaverimus propter quod non debemus conſentire, &c.* *When Canonical election began firſt in England.*

But to return to the cauſe of his great quarrell with the Pope. The See of *Canterbury* being void, the Monks of *Canterbury* ſuddenly and ſecretly without the King's licence elected one *Reignold* their Subprior to be Archbiſhop, who immediately poſted away to be confirmed by the Pope. But when he came there, the Pope rejected him, becauſe he came not recommended from the King. Hereupon the Monks made ſuit to the King to nominate ſome fit perſon to whoſe election they might proceed. The King commends *John Gray* Biſhop of *Norwich*, his principall Counſellour,

ſellour, who was afterward Lord Juſtice of this Kingdome, who with a full conſent was elected by them, and afterwards admitted and fully inveſted by the King. Theſe two elections bred ſuch a controverſie as none might determine but the Pope, who gave a ſhort rule in the caſe, for he pronounced both elections void, and cauſed ſome of the Monks of *Canterbury*, who were then preſent in the Court of *Rome*, to proceed to the election of *Stephen Langton*, lately made Cardinal at the motion and ſuit of the *French* King: who being ſo elected was forthwith confirmed and conſecrated by the Pope, and recommended to the King of *England* with a flattering Letter, and a preſent of four Rings ſet with precious ſtones, which were of great value and eſtimation in thoſe days. Howbeit the King more eſteeming this Jewell of the Crown, namely, the Patronage of Biſhopricks, returned a round and Kingly anſwer to the Pope, That inconſiderately and raſhly he had caſſed and made void the election of the Biſhop of *Norwich*, and had cauſed one *Langton*, a man to him unknown, and bred up and nouriſhed amongſt his mortal enemies, to be conſecrated Archbiſhop, without any due form of election, and without his Royal aſſent, which was moſt of all requiſite by the ancient laws and cuſtomes of his Realm. That he marvelled much, that the Pope himſelf and the whole Court of *Rome* did not conſider what a precious account they ought to make of the King of *England*'s friendſhip, in regard that his one Kingdome did yield them more profit and revenue then all the other countries on this ſide the *Alpes*. To conclude, he would maintain the liberties of his Crown to the death, he would reſtrain all his ſubjects from going to *Rome*. And ſince the Archbiſhops, Biſhops and other Prelates within his dominions were as learned and religious as any other in Chriſtendome, his ſubjects ſhould be judged by them in Eccleſiaſticall matters, and ſhould not need to run out of their own country *to beg Juſtice at the hands of ſtrangers.*

King John's ſtout and Kingly Letter to the Pope.

But what followed upon this? The Pope, after a ſharp reply, ſendeth forth a Bull of Malediction againſt the King,

and

and of Interdiction againſt the Realm, whereby all the Churches in *England* were ſhut up, the Prieſts and Religious perſons were forbidden to uſe any Liturgies or Divine ſervice, to marry, to bury, or to perform any Chriſtian duty among the people. This put the King into ſuch a rage, that he on the other part ſeized the Temporalties of all Biſhops and Abbots, and confiſcated the goods of all the Clergie. Then doth the Pope by a ſolemn ſentence at *Rome* depoſe the King, and by a Bull ſent into *England* diſchargeth his ſubjects of their allegeance, and by a Legate ſent to the King of *France* gave the Kingdome of *England* to him and his ſucceſſours for ever.

The Pope curſeth the King, and interdicteth the Realm

Theſe things brought ſuch confuſion and miſerie to all eſtates and degrees of people in *England*, as the King became odious to all his ſubjects, as well to the Laietie as to the Clergie. For as the Biſhops and religious people curſed him abroad, ſo the Barons took arms againſt him at home, till with much bloudſhed they forced him, by granting the *Great Charter*, to reſtore King *Edward*s Laws containing the ancient Liberties of the ſubjects of *England*. The Pope being a ſpectator of this Tragedy, and ſeeing the King in ſo weak and deſperate eſtate, ſent a Legate to comfort him, and to make a reaſonable motion unto him; to wit, that he ſhould ſurrender and give up his Crown and Kingdome to the Pope, which ſhould be re-granted unto him again to hold in Fee-farm and Vaſſalage of the Church of *Rome*: And that thereupon the Pope would bleſſe him and his Realm again, and curſe his rebells and enemies in ſuch ſort, as he ſhould be better eſtabliſht in his Kingdome then he was before. In a word, this motion was preſently embraced by that miſerable King, ſo as with his own hands he gave up the Crown to the Pope's Legat, and by an Inſtrument or Charter ſealed with a Bull or Seal of gold he granted to God and the Church of *Rome*, the Apoſtles *Peter* and *Paul*, and to Pope *Innocent* the third and his ſucceſſours, the whole Kingdome of *England*, and the whole Kingdome of *Ireland*; and took back an eſtate thereof by an Inſtrument ſealed with Lead, yielding yearly to the Church of

Rome over and above the *Peter-pence* a thouſand marks ſterling, *viz.* ſeven hundred marks for *England*, and three hundred marks for *Ireland*, with a flattering ſaving of all his Liberties and Royalties. The Pope had no ſooner gotten this conveiance, though it were void in law, but he excommunicateth the Barons, and repeals the *Great Charter*, affirming that it contained liberties too great for his ſubjects; calls the King his Vaſſall, and theſe Kingdomes *Saint Peter's Patrimony*; grants a general Bull of Proviſion for the beſtowing of all Eccleſiaſticall Beneſices, and takes upon him to be abſolute and immediate Lord of all. And thus, under colour of exerciſing Juriſdiction within theſe Kingdomes, the Pope by degrees got the very Kingdomes themſelves. And ſo would he doe at this day, if the King would give way to his Juriſdiction.

But what uſe did the Pope make of this grant and ſurrender of the Crown unto him? what did he gain by it, if our Kings retained the profits of their Kingdomes to their own uſe? Indeed we do not find that the Fee-farm of a thouſand marks was ever pay'd, but that it is all run in arrear till this preſent day. For the troth is, the Court of *Rome* did ſcorn to accept ſo poor a revenue as a thouſand marks *per annum* out of two Kingdomes. But after the death of King *John*, during all the reign of *Hen.* 3. his ſon, the Pope did not claim a Seignioury or a Rent out of *England* and *Ireland*, but did endeavour to convert all the profits of both Lands to his own uſe, as if he had been ſeized of all in demeſne. For whoſoever will reade *Matth. Paris* his ſtory of the time of King *Hen.* 3. will ſay theſe things ſpoken of before were but the *beginnings of evils*. For the exactions and oppreſſions of the Court of *Rome* were ſo continuall and intolerable, as that poor Monk, who lived in thoſe times, though otherwiſe he adored the Pope, doth call *England Baalam's Aſſe* loaden, beaten, and enforced to ſpeak; doth call the Court of *Rome Charybdis* and *barathrum avaritiæ*, the Pope's Collectors *Harpyes*, and the Pope himſelf a *Stepfather*, and the Church of *Rome* a *Stepmother*. He ſheweth that two third parts of the Land being then

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in the hands of Church-men, the entire profits thereof were exported to enrich the Pope and the Court of *Rome*: which was done for the moſt part by theſe two ways and means. Firſt, by conferring the beſt Eccleſiaſticall Benefices upon *Italians*, and other Strangers reſident in that Court, whoſe farmers and factors in *England* took the profits, turned them into money, and returned the money to *Rome*. Secondly, by impoſing continuall taxes and tallages, (worſe then *Iriſh cuttings*) being ſometimes the tenth, ſometimes the fifteenth, ſometimes the third, ſometimes the moietie of all the goods both of the Clergie and Laietie, under colour of maintaining the Pope's holy wars againſt the Emperour and the Greek Church, who were then ſaid to be in rebellion againſt their Lady and miſtreſſe the Church of *Rome*. Beſides, for the ſpeedy levying and ſafe return of theſe moneys, the Pope had his *Lombards* and other *Italian* Bankers and Uſurers reſident in *London* and other parts of the Realm, who offered to lend and diſburſe the moneys taxed, and return the ſame by exchange to *Rome*, taking ſuch penal Bands, the form whereof is ſet down in *Matth. Paris*, and ſuch exceſſive Uſury, as the poor Religious houſes were fain to ſell their Chalices and Copes, and the reſt of the Clergie and Laiety had their backs bowed and their eſtates broken under the burthen. Beſides, the Pope took for perquiſites and caſualties the goods of all Clerks that died inteſtate, the goods of all Uſurers, and all goods given to charitable uſes. Moreover he had a ſwarm of Friers, (the firſt corrupters of Religion in *England*) who perſwaded the Nobility and Gentrie to put on the ſign of the Croſſe, and to vow themſelves to the Holy wars, which they had no ſooner done, but they were again perſwaded to receive diſpenſations of their vows, and to give money for the ſame to the Church of *Rome*. I omit divers other policies then uſed by the Pope's Collectors to exhauſt the wealth of the Realm, which they affirmed they might take with as good a conſcience as the *Hebrews* took the Jewells of the *Egyptians*. Briefly, whereas the King had ſcarce means to maintain his Royall family, they received out of *England*

seventy thousand pounds sterling at least yearly, which amounteth to two hundred and ten thousand pounds sterling of the moneys currant at this day. Besides, they exported six thousand marks out of *Ireland* at one time, which the Emperour *Frederick* intercepted. Lastly, the King himself was so much dejected, as at a Royal Feast he placed the Pope's Legate in his own Chair of State, himself sitting on his right hand, and the Bishop of *York* on his left, *non sine multorum obliquantibus oculis*, saith *Matth. Paris*.

Thus we see the effect of the Pope's pretended Jurisdiction within the dominions of the King of *England*. We see to what calamity and servitude it then reduced both the Prince and people. Was it not therefore high time to meet and oppose those inconveniences? Assuredly if King *Edw.* 1. who was the Son and heir of *Hen.* 3. had inherited the weakness of his Father, and had not resisted this Usurpation and insolencie of the Court of *Rome*, the Pope had been proprietor of both these Ilands, and there had been no King of *England* at this day.

King Edw. 1. opposeth the Pope's Usurpation.

But King *Edward* 1. may well be styled *vindex Anglicæ libertatis*, the *Moses* that delivered his people from slavery and oppression: and as he was a brave and victorious Prince, so was he the best *Pater patriæ* that ever reigned in *England* since the *Norman* Conquest, till the Coronation of our gracious Sovereign. At the time of the death of his father he was absent in the war of the Holy land, being a principal Commander of the Christian Armie there, so as he returned not before the second year of his reign. But he was no sooner returned and crowned, but the first work he did was to shake off the yoke of the Bishop of *Rome*. For the Pope having then summoned a generall Council, before he would licence his Bishops to repair unto it, he took of them a solemn oath, that they should not receive the Pope's blessing. Again, the Pope forbids the King to war against *Scotland*; the King regards not his prohibition: he demands the First-fruits of Ecclesiasticall Livings; the King forbids the payment thereof unto him. The Pope sendeth forth a generall Bull prohibiting the Clergie to pay subsidies or tributes

to

to Temporal Princes. A Tenth was granted to the King in Parliament, the Clergie refuſed to pay it: the King ſeizeth their Temporalties for their contempt, and got payment notwithſtanding the Pope's Bull. After this he made the Statute of *Mortmain*, whereby he brake the Pope's chief net, which within an Age or two more would have drawn to the Church all the temporall poſſeſſions of the Kingdome, *&c.* Again, one of the King's ſubjects brought a Bull of Excommunication againſt another; the King commandeth he ſhould be executed as a traitour, according to the ancient Law. But becauſe that Law had not of long time been put in execution, the Chancellour and Treaſurer kneeled before the King, and obtained grace for him, ſo as he was onely baniſhed out of the Realm. And as he judged it treaſon to bring in Bulls of Excommunication, ſo he held it a high contempt againſt the Crown to bring in Bulls of Proviſion, or Briefs of Citation, and accordingly the Law was ſo declared in Parliament 25 *Edw.* 1. which was the firſt Statute made againſt *Proviſors*: the execution of which Law, during the life of King *Edw.* 1. did well-nigh aboliſh the uſurped Juriſdiction of the Court of *Rome*, and did revive and reſtore again the ancient and abſolute Sovereignty of the King and Crown of *England*.

E. 2. ſuffereth the Pope to uſurp again.

His Succeſſour K. *Edw.* 2. being but a weak Prince, the Pope attempted to uſurp upon him again: but the Peers and people withſtood his Uſurpation. And when that unhappy King was to be depoſed, amongſt many Articles framed againſt him by his enemies, this was one of the moſt hainous, that he had given allowance to the Pope's Bulls.

Again, during the minority of King *Edw.* 3. and after that in the heat of the wars in *France*, the Pope ſent many Briefs and Bulls into *England*; and at laſt preſumed ſo far, as that he gave an *Italian* the title of a Cardinall in *England*, and withall by his Bull gave him power to beſtow all Eccleſiaſticall promotions as they ſhould fall void from time to time. This moved the King and the Nobility to write to the Pope to this effect: "We and our anceſtours have richly endowed the Church of *England*, and have founded Ab-

"beys

Resisteth the usurpation of the Pope.

"beys and other Religious houſes for the juriſdiction of our "people, for maintenance of hoſpitalitie, and for the ad- "vancement of our countrymen and kinſmen. Now you pro- "vide and place ſtrangers in our Benefices, that come not "to keep reſidence thereupon; and if they come, under- "ſtand not our language; and ſome of them are ſubjects "to our mortal enemies: by reaſon whereof our people "are not inſtructed, hoſpitalitie is not kept, our Scholars "are unpreferred, and the Treaſure of the Realm is expor- ted. The Pope returneth anſwer, That the Emperour had lately ſubmitted himſelf to the Church of *Rome* in all points, and was become the Pope's great friend; and in menacing manner adviſed the King of *England* to doe the like. The King replies, That if the Emperour and *French* King both ſhould take his part, he was ready to give batte l to both in defence of the liberties of his Crown. Hereupon the ſeverall Statutes againſt *Proviſors* before recited were put in execution ſo ſeverely, as the King and his ſubjects enjoyed their right of patronage clearly: and their exemption of Clerks took no place at all; for that the Abbot of *Waltham* and Biſhop of *Winchester* were both attainted of high contempts, and the Biſhop of *Ely* of a capital offence, as appeareth in the Records of this King's reign. Yet during the nonage of *Richard* 2. they began once again to encroach upon the Crown, by ſending Legates and Bulls and Briefs into *England*, whereof the people were ſo ſenſible and impatient, as that at their ſpecial prayer this Law of 16 *Rich.* 2. (whereupon our Indictment is framed) was enacted, being more ſharp and penall then all the former Statutes againſt *Proviſors*. And yet againſt this King, as againſt *Edw.* 2. it was objected at the time of his Deprivation, that he had allowed the Pope's Bulls to the enthralling of the Crown.

King Rich. 2.

After this in the weak time of King *Hen.* 6. they made one attempt more to revive their uſurped Juriſdiction by this policy: The Commons had denied the King a Subſidy when he ſtood in great want of moneys. The Archbiſhop of *Canterbury* and the reſt of the Biſhops offered the King a large ſupply of his wants if he would conſent that all the

Laws

Laws againſt *Proviſors*, and ſpecially this Law of *16 Rich. 2.* might be repealed. But *Humphrey* Duke of *Glouceſter*, who had lately before caſt the Pope's Bull into the fire, did likewiſe cauſe this motion to be rejected. So as by ſpecial providence theſe Laws have ſtood in force even till this day in both theſe Kingdomes.

Then the Attorney generall deſcended to the evidence, whereby he proved fully all the parts of the Indictment. First, it was proved by *Lalor*'s own Confeſſion, upon ſeverall Examinations taken before the Lord Deputie and Lord Chancellor and others, that he had accepted the Office and title of Vicar-general in the Dioceſes of *Dublin*, *Kildare* and *Fernes*, by virtue of the Pope's Bull. Secondly, it appeared by the copies of ſundry Letters found among his papers at his apprehenſion, that he ſtyled himſelf the Pope's Vicar, in this form, *Robertus Dublinien. & Kildaren. & Fernen. Dioeceſ. Vicarius Apoſtolicus.* Thirdly, there were produced the copies of divers Acts and Inſtruments, written for the moſt part with *Lalor*'s own hand, ſome of Inſtitutions of Popiſh Prieſts to Benefices, others of Diſpenſations with Marriage within the degrees, others of Divorces, others of Diſpenſations for non-payment of Tithes. Whereby it was manifeſtly proved that he did execute the Pope's Bull, in uſurping and exerciſing Epiſcopall juriſdiction as *Vicar-generall* of the See Apoſtolick within the Dioceſes before named.

To this evidence he made a threefold anſwer. First, That he was no ſuiter for the office of *Vicar-generall*, but it was impoſed on him, and he accepted *virtute obedientiæ*, onely to obey his Superiours. Next, That he did exerciſe the office of *Vicar-generall in foro conſcientiæ tantum*, and not *in foro judicii*. And laſtly, that thoſe copies of Inſtitutions, Diſpenſations and Divorces were many of them written with his man's hand, as precedents of ſuch Acts and Inſtruments, without his privity or direction. Hereupon Sir *James Ley* Chief Juſtice told him, that he could not well ſay that he accepted that unlawfull office *virtute obedientiæ*, for there was no vertue in that obedience: That he ow'd an obedience to the Law, and to the King, who is the true Supe-

riour

riour and Sovereign over all his ſubjects, and hath no Peer within his dominions; and that the Superiours whom he meant and intended were but Uſurpers upon the King's Juriſdiction, and therefore this excuſe did aggravate his contempt, in that it appeared he had vowed obedience to thoſe who were apparent enemies to the King and his Crown. And though it were manifeſt that he exerciſed juriſdiction *in foro judicii*, (for every Inſtitution is a Judgement, and ſo is every Sentence of divorce:) yet were his offence nothing diminiſhed if he had executed his office of *Vicar-generall in foro conſcientiæ tantum*; for the court of man's conſcience is the higheſt tribunall, and wherein the power of the Keys is exerciſed in the higheſt degree.

Hereunto the Atturney generall took occaſion to add thus much, That *Lalor* had committed theſe high offences, not onely againſt the Law, but againſt his own Conſcience, and that he was already condemned *in foro conſcientiæ*. For that he upon his ſecond Examination had voluntarily acknowledged himſelf not to be a lawfull *Vicar-generall*, and that he thought in his conſcience he could not lawfully take upon him the ſaid office. He hath alſo acknowledged our Sovereign Lord K. *James* to be his lawfull, Chief and Supreme Governour, in all cauſes, as well Eccleſiaſticall as Civile; and that he is in conſcience bound to obey him in all the ſaid cauſes, *&c.* as it is contained in his Acknowledgement or Confeſſion before ſet down. Which being ſhewed forth by the Atturney generall, the Court cauſed it to be publickly read; and thereupon demanded of *Lalor*, if that were not his free and voluntary confeſſion ſigned with his own hand, and confirmed by his oath before the Lord Deputie and Councill. He was not a little abaſhed at the publiſhing of this Acknowledgement and Confeſſion in the hearing of ſo many principal Gentlemen, to whom he had preached a contrary doctrine: therefore, ſaid he, the ſhewing forth of this Confeſſion is altogether impertinent and beſides the matter. Howſoever he could not deny but that he made it, and ſigned it, and ſwore it, as it was teſtified by the Lord Deputie and the reſt.

Lalor's Confeſſion publickly read.

Then

Then was it demanded of him, whether ſince the making of this Confeſſion he had not proteſted to divers of his friends, that he had not acknowledged the King's Supremacie in *Eccleſiaſticall cauſes*. His anſwer was, That indeed he had ſaid to ſome of his friends who viſited him in the Caſtle of *Dublin*, that he had not confeſſed or acknowledged that the King was his Supreme Governour *in Spirituall cauſes*, for that the truth is, in the Confeſſion there is no mention made of *Spirituall cauſes*, but of *Eccleſiaſticall*.

This is a ſubtile evaſion indeed, ſaid the Atturney generall: I pray you what difference do you make between *Eccleſiaſticall cauſes* and *Spirituall cauſes*? This queſtion, ſaid *Lalor*, is ſudden and unexpected at this time, and therefore you ſhall doe well to take another day to diſpute this point. Nay, ſaid the Atturney generall, we can never ſpeak of it in a better time or fitter place: and therefore though you, that bear ſo reverend a title, and hold the reputation of ſo great a Clerk, require a farther time; yet ſhall you hear that we Lay-men that ſerve his Majeſtie, and by the dutie of our places are to maintain the Juriſdiction of the Crown, are never ſo unprovided but that we can ſay ſomewhat touching the nature and difference of theſe Cauſes.

When the diſtinction of Eccleſiaſticall & Spirituall cauſes from Civil and Temporal cauſes began in the world.

Firſt then, let us ſee when this diſtinction of *Eccleſiaſticall* or *Spirituall cauſes* from *Civile* and *Temporall cauſes* did firſt begin in point of juriſdiction. Aſſuredly for the ſpace of three hundred years after *Chriſt* this diſtinction was not known or heard of in the Chriſtian world. For the cauſes of *Teſtaments*, of *Matrimony*, of *Baſtardy* and *Adultery*, and the reſt which are called *Eccleſiaſticall* or *Spirituall cauſes*, were meerly *Civil*, and determined by the rules of the Civil Law, and ſubject onely to the juriſdiction of the Civil Magiſtrate, as all Civilians will teſtifie with me.

But after that the Emperours had received the Chriſtian Faith, out of a zeal and deſire they had to grace and honour the learned and godly Biſhops of that time, they were pleaſed to ſingle out certain ſpeciall Cauſes wherein they granted juriſdiction unto the Biſhops: namely, in cauſes of *Tithes*, becauſe they were paid to men of the

Church; in cauſes of *Matrimony*, becauſe Marriages were for the moſt part ſolemnized in the Church; in cauſes *Teſtamentary*, becauſe Teſtaments were many times made *in extremis*, when Church-men were preſent, giving ſpiritual comfort to the Teſtator, and therefore they were thought the fitteſt perſons to take the probates of ſuch Teſtaments. Howbeit theſe Biſhops did not proceed in theſe cauſes according to the Canons and Decrees of the Church, (for the Canon Law was not then hatched or dream'd of) but according to the rules of the Imperiall Law, as the Civil Magiſtrate did proceed in other cauſes: neither did the Emperours, in giving this Juriſdiction unto them, give away their own Supreme and abſolute power, to correct and puniſh theſe Judges as well as others, if they performed not their ſeverall duties. This then is moſt certain, that the primitive Juriſdiction in all theſe cauſes was in the Civil Magiſtrate, and ſo in right it remaineth at this day; and though it be derived from him, it remaineth in him as in the fountain. For every Chriſtian Monarch (as well as the godly Kings of *Juda*) is *cuſtos utriuſque Tabulæ*; and conſequently hath power to puniſh not onely Treaſon, Murther, Theft, and all manner of Force and Fraud; but Inceſt, Adultery, Uſury, Perjury, Simony, Sorcery, Idolatry, Blaſphemy. Neither are theſe Cauſes in reſpect of their own quality and nature to be diſtinguiſhed one from another by the names of *Spirituall* or *Temporall*: For why is *Adultery* a *Spirituall cauſe* rather then *Murther*, when they are both offences alike againſt the Second Table? or *Idolatry* rather then *Perjury*, being both offences likewiſe againſt the Firſt Table? And indeed if we conſider the natures of theſe Cauſes, it will ſeem ſomewhat abſurd that they are diſtinguiſhed by the name of *Spirituall* and *Temporall*: for, to ſpeak properly, that which is oppoſed to *Spirituall* ſhould be termed *Carnall*; and that which is oppoſed to *Temporall* ſhould be called *Eternall*. And therefore if things were called by their proper names, *Adultery* ſhould not be called a *ſpirituall* offence, but a *carnall*. But ſhall I expreſſe plainly and briefly why theſe Cauſes were firſt denominated,

ted, ſome *Spirituall* or *Eccleſiaſticall*, and others *Temporall* and *Civil*.

Truly they were ſo called, not from the nature of the Cauſes, as I ſaid before, but from the quality of the perſons whom the Prince had made Judges in thoſe Cauſes. The Clergie did ſtudy *ſpirituall* things, and did profeſſe to live *ſecundùm ſpiritum*, and were called *ſpirituall men*; and therefore they called the Cauſes wherein Princes had given them juriſdiction *ſpirituall cauſes*, after their own name and quality. But becauſe the Lay-magiſtrates were ſaid to intend the things of this world, which are *temporall* and tranſitory, the Clergie called them *ſecular* or *temporall* men, and the Cauſes wherein they were Judges *temporall cauſes*. This diſtinction began firſt in the Court of *Rome*, where the Clergie having by this Juriſdiction gotten great wealth, their wealth begot pride, their pride begot ingratitude towards Princes, who firſt gave them their Juriſdiction; and then, according to the nature of all ungratefull perſons, they went about to extinguiſh the memory of the benefit: for whereas their Juriſdiction was firſt derived from *Cæſar*, in the execution whereof they were *Cæſar*'s Judges, ſo as both their Courts and Cauſes ought ſtill to have born *Cæſar*'s *image* and *ſuperſcription*, as belonging unto *Cæſar*, they blotted *Cæſar*'s name out of the ſtyle of their Courts, and called them *Courts Chriſtian*, as if the Courts holden by other Magiſtrates had been in compariſon but Courts of *Ethnicks*; and the Cauſes which in their nature were meerly *Civil*, they called *Spirituall* and *Eccleſiaſticall*. So as if the Emperour ſhould challenge his Courts and Cauſes again, and ſay, *Reddite Cæſari quæ ſunt Cæſaris*, they would all cry out on the contrary part and ſay, *Date Deo quæ ſunt Dei*; our Courts bear the name and title of *Chriſt*, the ſuperſcription of *Cæſar* is quite worn out, and not to be found upon them. And this point of their policy is worth the obſerving, that when they found their juriſdiction in Matrimoniall cauſes to be the moſt ſweet and gainfull of all other, (for of *Matrimony* they made *matter of money* indeed) to the end that *Cæſar* might never reſume ſo rich a perquiſite of

their Spirituall juriſdiction, they reduced Matrimony into the number of the 7 *Sacraments*: after which time it had been Sacriledge, if the Civil Magiſtrate had intermeddled with the leaſt matter that had relation to Matrimonie, or any dependencie thereupon. So then it appeareth, that all Cauſes whereof Eccleſiaſticall or Spirituall perſons have cogniſance or juriſdiction by the grants or permiſſion of Princes are called *Eccleſiaſticall* or *Spirituall cauſes*. And as all their Courts are called *Spirituall Courts*, ſo all Cauſes determinable in thoſe Courts are called *Spirituall Cauſes*. And therefore where Mr. *Lalor* hath acknowledged the King's Majeſtie to be Supreme Governour in all *Eccleſiaſticall cauſes*, he hath therein acknowledged the King's Supremacie in all *Spirituall cauſes*; wherein he hath but rendered to *Cæſar* that which is *Cæſar*'s, and hath given unto his Majeſtie no more then all the Biſhops of *England* have yielded to his Predeceſſours, not onely in this latter Age, but alſo in former times both before and ſince the Conqueſt, as hath been before at large expreſſed.

Here the day being far ſpent, the Court demanded of the priſoner if he had any more to ſay for himſelf. His anſwer was, That he did willingly renounce his office of *Vicar-generall*, and did humbly crave his Majeſtie's grace and pardon. And to that end, he deſired the Court to move the L. Deputy to be favourable unto him. Then the Jury departed from the Bar, and returning within half an hour, found the priſoner guiltie of the Contempts whereof he was indicted. Whereupon the Solicitor generall moved the Court to proceed to Judgement. And Sir *Dominick Sarſfield*, Knight, one of the Juſtices of his Majeſtie's chief place, gave Judgement according to the form of the Statute whereupon the Indictment was framed.

OF

OF THE

KING'S

Eccleſiaſticall Law.

IN the Term of S. *Hillary*, in the 33. year of the Reign of Q. *Elizabeth*, *Rotulo* 340. *Robert Caudrey* Clerk brought an action of Treſpaſſe againſt *George Atton*, for breaking of his Cloſe at *North-Luffenham* in the County of *Rutland*, the 7. day of *Auguſt* in the 31. year of the Reign of the ſaid Queen. The Defendant pleaded not guilty, and the Jury returned and ſworn for triall of this iſſue gave a ſpeciall Verdict; that is, they found the truth of the Caſe at large, referring the ſame for the Law to the judgment of the Court, to this effect: They found that the Plaintif before the Treſpaſſe ſuppoſed to be done was Parſon of the Rectory of *South-Luffenham*, in the County aforeſaid, whereof the place whereiu the Treſpaſs is alledged was parcell; *Caudrey's Caſe.*

parcell; and found the Statute made in the firſt year of the ſaid Queen's Reign, by which in effect it is enacted, That ſuch Juriſdiction Eccleſiaſticall as by any Spirituall or Eccleſiaſticall power hath heretofore been, or may lawfully be, exerciſed for the Viſitation of the Eccleſiaſticall eſtate and perſons, and for reformation, order and correction of the ſame, and of all manner of Errors, Hereſies, Schiſms, Abuſes, Offences, Contempts and Enormities within this Realm, ſhould for ever be united and annexed to the Imperiall Crown of this Realm: And that her Highneſſe, her Heirs and Succeſſors, ſhould have full power and authority by virtue of that Act, by Letters Patents under the great Seal of *England* to aſſign, nominate and authorize ſuch perſons, being natural-born Subjects, as her Highneſs, her Heirs or Succeſſors ſhould think meet, to exerciſe and execute under her Highneſſe, her Heirs and Succeſſors, all and all manner of Juriſdiction, Priviledges and Preheminences, in any wiſe touching or concerning any Spiritual or Eccleſiaſtical Juriſdiction within this Realm of *England* and *Ireland*; and to viſit, reform, redreſſe, order, correct and amend all ſuch Errors, Hereſies, Schiſms, Abuſes, Offences, Contempts and Enormities whatſoever, which by any manner of Spiritual or Eccleſiaſtical power, authority or juriſdiction, can or may lawfully be reformed, ordered, redreſſed, corrected, reſtrained or amended, to the pleaſure of Almighty God, the encreaſe of vertue, and the conſervation of the peace and unity of this Realm: And that ſuch perſons, ſo to be named, aſſigned and authorized, ſhould have full power and authority by virtue of that Act, and of ſuch Letters Patents, under her Highneſſe, her Heirs and Succeſſors, to exerciſe, uſe and execute all the premiſſes, according to the tenour and effect of the ſaid Letters Patents, any matter or cauſe to the contrary notwithſtanding.

And afterwards the ſaid Queen by her Letters Patents under the great Seal of *England*, bearing date the ninth day of *December*, in the ſix and twentieth year of her Reign, according to the tenour of the ſaid Act, did authorize the Archbiſhop

Archbiſhop of *Canterbury*, the Biſhop of *London*, and divers others, or any three or more of them, to enquire, amongſt others, of the Statute of the firſt year of her Reign concerning the Book of Common Prayer; with this Clauſe alſo contained in the ſaid Letters Patents, *vide ieet*, Alſo we give and grant full power and authority to reform, redreſſe, order, correct and amend in all places of this Realm all Errors, Hereſies, Schiſms, Abuſes, Contempts and Enormities Spirituall or Eccleſiaſticall whatſoever, which by any Spirituall or Eccleſiaſticall power, authority or juriſdiction, can or may lawfully be reformed, ordered, redreſſed, corrected, reſtrained or amended by Cenſures Eccleſiaſticall, Deprivation, or otherwiſe, *&c.* And upon proof thereof had, and the offences aforeſaid, or any of them, ſufficiently proved againſt any perſon or perſons, by Confeſſion, lawful witneſs, or by any due manner, *&c.* That then you or three of you ſhall have full power and authority to order and award ſuch puniſhment to every ſuch offendor, by Fine, Impriſonment, Cenſure of the Church, or otherwiſe, or by all or any of the ſaid ways, and to take ſuch order for the redreſſe of the ſame as by your wiſedomes and diſcretions ſhall be thought meet and convenient, as by the ſaid Letters Patents more at large appeareth.

And further, they found the Statute of the firſt year of the Reign of the ſaid Queen, by which it is enacted, That the offendor againſt that Act concerning the Uniformity of Common Prayer, being thereof lawfully convicted, according to the Laws of the Realm, by Verdict of twelve men, or by his Confeſſion, or by the notorious Evidence of the fact, ſhould forfeit for the firſt offence the value of his Spirituall living for one whole year, and ſhould ſuffer ſix months Impriſonment: for the ſecond offence, to be committed after ſuch Conviction, he ſhould be deprived *ipſo facto* of all his Spiritual livings: and for the third offence, to be committed after two Convictions as is aforeſaid, he ſhould be deprived of all his Eccleſiaſticall livings, and be impriſoned during his life. And that the ſaid *Robert Cudrey* before the time of the treſpaſs ſuppoſed was deprived of his ſaid

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Benefice before the ſaid High Commiſſioners, as well for that he had preached againſt the ſaid Book of Common Prayer, as alſo for that he refuſed to celebrate Divine Service according to the ſaid Book, and ſhewed particularly wherein: Which ſaid Sentence of Deprivation was given by the Biſhop of *London, cum aſſenſu A. B. C. D. &c. collegarum ſuorum.* And the Jury concluded their Verdict, That if the ſaid Deprivation were not warranted by Law, but void, then they found the Defendant guilty of the treſpaſs: And if the Deprivation were not void in Law, then they found the Defendant not guilty.

And this Caſe was ſolemnly and oftentimes debated at Barre by the Counſel of either party, and at the Bench by the Judges; and after great and long deliberation and conſultation had with the reſt of the Judges, was in the Term of S. *Hillary*, in the 37. year of the ſaid Queen adjudged. And it was argued by the Counſel of the Plaintif, that the ſaid Deprivation was void for 4 cauſes.

The objections of the Counſell of the Plaintif.

1. Firſt, The ſaid Book of Common Prayer being authorized and commanded to be obſerved by the ſaid Act of the firſt year of the Queen, upon the forfeitures and puniſhments therein compriſed, the offence of the Plaintif is againſt that Act; for that Act onely doth command the obſervation of the ſaid Book, and inflicteth puniſhments in ſeverall degrees for depraving or not obſerving of the ſame: and conſequently, if the offence be againſt that Act, the Plaintif ought to have been proceeded withall and puniſhed according to the ſame. And it was ſaid, that the ſaid Act was an Act of great moderation and equity, for the offendor for his firſt offence ſhould not be *ipſo facto* deprived, but ſhould onely loſe the profits of his Eccleſiaſticall livings for one year, and ſuffer Impriſonment for ſix months, to the end that ſuch as were froward might have a time to repent, and the well-minded a time to conſent. And ſuch care had the Act of the offendors in this behalf, as if they committed one offence, and then another, and after the ſecond many more; yet ſhould not the offendor be deprived for any of the latter offences, unleſs he had been firſt judicially convicted of record

cord by verdict of 12 men, or by confeſſion, or notorious evidence of the fact: So as the ſecond offence, for which he muſt be deprived by the ſaid Act, muſt be done and committed after ſuch a judiciall and ſolemn Conviction and puniſhment, according to the ſaid Act: And then if ſuch an open puniſhment and infliction ſhould not give him underſtanding, and open his heart to repent, then, upon a like Conviction, for a ſecond offence, to be committed after ſuch a Conviction, Deprivation ſhould follow. But in the caſe now in queſtion, *Caudrey* the Plaintif was deprived from his ſaid Parſonage of *South-Luffenham* for his ſaid firſt offence, being never convented or convicted for any ſuch offence before. And therefore it was concluded for this firſt point, That the ſaid High Commiſſioners had not purſued the form and order preſcribed by the ſaid Act; *& non obſervata forma, infertur adnullatio Actus*; and conſequently the Deprivation of the Plaintif is void, and therefore Judgement ought to be given for him. And it was ſaid by the Plaintif's Counſell, by way of anticipation, That albeit there was a Proviſo in the ſame Act for Archbiſhops, Biſhops, and their Chancellors, Commiſſaries, Archdeacons, and other Ordinaries, having peculiar Juriſdiction; yet that did not give any ſtrength to the ſaid Deprivation, for two cauſes. Firſt, that the Commiſſioners by force of the ſaid Act of 1 *Eliz.* and of the ſaid Letters Patents, are not within the ſaid Proviſo, but onely Archbiſhops and Biſhops, their Chancellors, Commiſſaries, *&c.* in reſpect of their ordinary Juriſdiction. 2. Admitting it ſhould extend to the ſaid High Commiſſioners, yet ought they to proceed according to the form and order of the ſaid Act, for an offence done againſt that Act.

Secondly, it was objected by the Counſel of the Plaintif, 2.
That *Caudrey* the Plaintif was not deprived either by the verdict of 12 men, or by confeſſion, or by the notorious evidence of the fact, but by default in reſpect he appeared not, being duely precognizated or warned; which caſe, as it was objected, was *Caſus omiſſus, & oblivioni datus*, and not within the ſaid Act.

3. Thirdly, it was objected on the behalf of the Plaintif, That the ſaid Sentence given by the ſaid High Commiſſioners was utterly void, for that they or any 3 or more of them having authority by force of the ſaid Act, and of the ſaid Letters Patents under the great Seal, ought to joyn in the Sentence, and that one alone with the conſent of 2 or more of the other Commiſſioners cannot give a Sentence; for that every Commiſſioner hath equal authority, and by the ſaid Letters Patents three or more muſt give the Sentence with conſent of others: and ſuch a Judgement given by any Commiſſioners of Oyer and Terminer, or other Commiſſioners or Judges of the Common Law, were utterly void and of none effect.

4. Fourthly, and laſtly, it was objected, That the ſaid Commiſſioners were not nominated and appointed according to the ſaid Act; for the Juriſdiction and power given by the ſaid Act to the Crown, is, to name ſuch Commiſſioners as be natural-born Subjects, and it doth not appear by the ſaid ſpecial verdict that the ſaid Commiſſioners were natural-born ſubjects: And albeit the Judges as private men in their particular knowledge did know them to be natural-born ſubjects; yet they being Judges of record, ought onely to ſee with Judicial eyes, and to take knowledge of no more then doth appear to them within the Record; for upon that, and not upon private knowledge out of the Record, they onely muſt give their Judgement, and upon that Record enter their Judgement alſo of record. And ſeeing that the ſaid Queen had, as it was ſaid by the Plaintif's Counſel, Eccleſiaſtical Juriſdiction by the ſaid Act of Parliament, and by the ſame, power was given unto her to name Eccleſiaſtical Commiſſioners; ſhe of neceſſity muſt make her nomination according to the ſaid Act, having no other power, as was objected, but by the ſaid Act. And ſeeing it was not ſpecially found that they were natural-born ſubjects, *& de non apparentibus & non exiſtentibus eadem eſt ratio*; for this cauſe alſo the ſaid Sentence of Deprivation was void, as given by Commiſſioners not warranted by the ſaid Act.

As to the firſt and ſecond Objections, both being grounded

ded upon the ſaid Act of Parliament, it was reſolved by the whole Court, that notwithſtanding theſe two Objections, the Sentence was not to be impeached for either of them, and that for three cauſes. Firſt, for that the ſaid Act concerning the Uniformity of Common Prayer being in the affirmative, doth not abrogate or take away the Juriſdiction Eccleſiaſticall, unleſs words in the negative had been added, as, *and not otherwiſe*, or *in no other manner or form*, or to the like effect. And this appeareth by the general rule of all our Books, as it appeareth in 46 *E.*3.4. 47 *E.*3. 10. 20 *H.*6.11. 36 *H.*6.3. 3 *E.*4.27. 3 *H.*7.1. 14 *H.*7.10. 15 *H.*7.16. 33 *H.*8. *Dyer* 50. 4 *Mar. Dyer* 135. *Stradlings caſe. Pl. Com.* 207. *&c.* 2. The Eccleſiaſticall Law and the Temporal Law have ſeveral proceedings, and to ſeveral ends: the one being Temporal, to inflict puniſhment upon the body, lands, or goods; the other being Spiritual, *pro ſalute Animæ*: the one to puniſh the outward man, the other to reform the inward. And this appeareth in 12 *H.*7. 22. *&* 10 *E.*4.10. *&c.* Then both theſe diſtinct and ſeveral Juriſdictions conſiſt and ſtand well together, and do joyn in this, to have the whole man inwardly and outwardly reformed. 3. The Proviſo in the ſaid Act doth make this queſtion without queſtion, for by it is provided, ordained and enacted by the Authority aforeſaid, That all and ſingular Archbiſhops and Biſhops, and every of their Chancellors, Commiſſaries, Archdeacons, and other Ordinaries, having any peculiar Eccleſiaſtical Juriſdiction, ſhould have full power and authority by virtue of that Act, as well to enquire in their Viſitations, Synods, and elſewhere within their Juriſdiction, as at any other time and place to take informations of all and every the things above mentioned, done, committed or perpetrated within the limits of their Juriſdictions and authority, and puniſh the ſame by Admonition, Excommunication, Sequeſtration, or Deprivation, and other Cenſures and Proceſſe, in like form as heretofore had been uſed in like caſes by the Queen's Eccleſiaſticall Laws, as by the ſaid Act appeareth. So as ſeeing, if that Act had never inflicted any puniſhment

The reſolutions of the Court to the 1. and 2.

for depraving or not obſerving the Book of Common Prayer, yet the ſame being allowed and commanded to be obſerved for uniformity of Common Prayer, and the unity and peace of the Church; the Eccleſiaſticall Judge may deprive ſuch Parſon, Vicar, *&c.* as ſhall deprave or not obſerve the ſaid Book, as well for the firſt offence, as he might have done by the Cenſures of the Church and the Eccleſiaſticall Laws, if no form of puniſhment had been inflicted by that Act. And this doth evidently appear by the ſaid Proviſo: For thereby, notwithſtanding any thing in that Act contained, they may puniſh ſuch offendors by Admonition, Excommunication, Sequeſtration, or Deprivation, and other Cenſures and Proceſſe, in like form as heretofore hath been uſed in like caſes by the Queen's Eccleſiaſticall Laws, and are not bound to purſue the form preſcribed by the ſaid Act, which is to puniſh the offendor according to the Temporal Law. And it was reſolved, That if the Juriſdiction of the Archbiſhops and Biſhops, and their Chancellors, Commiſſaries, Archdeacons, and other Ordinaries, having any peculiar Eccleſiaſticall Juriſdiction, were provided for by the ſaid Act, *à fortiori* the High Commiſſioners, authorized by another Act in the ſame Parliament, were *tacitè* provided for: *Quia cui licet quod majus eſt, non debet quod minus eſt non licere.*

To the 3. As to the third Objection, it was alſo reſolved by the whole Court, that the Sentence given by the Biſhop by the conſent of his Collegues, was ſuch as the Judges of the Common Law ought to allow to be given according to the Eccleſiaſticall Laws: For ſeeing their authority is to proceed and give ſentence in Eccleſiaſticall cauſes according to the Eccleſiaſticall Law, and they have given a Sentence in a cauſe Eccleſiaſticall upon their proceedings by force of that Law; the Judges of the Common Law ought to give faith and credit to their Sentence, and to allow it to be done according to the Eccleſiaſticall Law: For *cuilibet in ſua arte perito eſt credendum.* And this is the common received opinion of all our Books, as appeareth 11 *H.*7.9. 34 *H.*6.14. *&c.* And in *Bunting and Leppingwells* Caſe, in the part of my

ry Reports. And this is the uſual form of all the Sentences in their Eccleſiaſtical Courts. And this very Point, *Tr.* 23 *Reginæ Eliz.* in this Court, between *Cheyney* and *Frankwell*, all the matter being found, as this Caſe is, by ſpeciall verdict, was adjudged.

As to the fourth Objection, *videlicet*, *That the ſaid Queen had onely power by force of the ſaid Act to nominate Commiſſioners for Eccleſiaſticall cauſes, and therefore the foreſaid Nomination not purſuing the authority given unto her by that Act ſhould be void*: Hereunto a threefold Anſwer was given, and reſolved by the whole Court. 1. That they which were Commiſſioners, and had places of Judicature over the King's ſubjects, ſhould be intended to be Subjects born, and not Aliens: But if in veritie they were Aliens, yet in reſpect of the general intendment to the contrary, it ought to be alledged and proved by the other party. For *Stabilitur præſumptum donec probetur in contrarium.* 2. The Jurors have found that the Queen by her ſaid Letters Patents did authorize them *ſecundum formam Statuti prædicti*; and therefore it doth by neceſſary conſequence amount to as much as if they had found they had been Subjects born: For if they were not Subjects born, they could not be authorized *ſecundum formam Statuti prædicti. Vide* 11 *H.* 4. 4. 13 *Eliz. Dyer fol.* And the rather, for that this is found by ſpecial verdict. 3. It was reſolved, That the ſaid Act of the firſt year of the ſaid Queen concerning Eccleſiaſtical Juriſdiction was not a Statute introductory of a new Law, but declaratory of the old, which appeareth as well by the Title of the ſaid Act, *videlicet*, *An Act reſtoring to the Crown the ancient Juriſdiction over the State Eccleſiaſtical and Spiritual, &c.* as alſo by the body of the Act in divers parts thereof. For that Act doth not annex any Juriſdiction to the Crown, but that which in truth was, or of right ought to be, by the ancient Laws of the Realm parcell of the King's Juriſdiction, and united to his Imperial Crown, and which lawfully had been, or might be, exerciſed within the Realm. The end of which Juriſdiction, and of all the proceeding thereupon, was, that all things might be done in cauſes Eccleſiaſticall

To the 4.

to

to the pleaſure of Almighty God, the increaſe of vertue, and the conſervation of the peace and unity of this Realm, as by divers parts of the ſaid Act appeareth. And therefore as by that Act no pretended Juriſdiction exerciſed within this Realm, being either ungodly or repugnant to the Prerogative or the ancient Law of the Crown of this Realm, was or could be reſtored to the ſame Crown, according to the ancient right and Law of the ſame: So if that Act of the firſt year of the ſaid Queen had never been made, it was reſolved by all the Judges, that the King or Queen of *England* for the time being may make ſuch an Eccleſiaſticall Commiſſion as is before mentioned by the ancient Prerogative and Law of *England*. And therefore by the ancient Laws of this Realm, this Kingdome of *England* is an abſolute Empire and Monarchy, conſiſting of one Head, which is the King, and of a Body politick, compact and compounded of many and almoſt infinite ſeverall, and yet well-agreeing, members: All which the Law divideth into two ſeveral parts, that is to ſay, *the Clergie, and the Laietie*, both of them next and immediately under God ſubject and obedient to the Head. Alſo the Kingly Head of this politick Body is inſtituted and furniſhed with plenary and entire power, Prerogative and Juriſdiction, to render Juſtice and right to every part and member of this Body, of what eſtate, degree or calling ſoever, in all Cauſes, Eccleſiaſticall or Temporal; otherwiſe he ſhould not be a Head of the whole Body. And as in Temporal cauſes, the King by the mouth of the Judges in his Courts of Juſtice doth judge and determine the ſame by the temporal Laws of *England*: ſo in cauſes Eccleſiaſticall and Spiritual, as namely, Blaſphemy, Apoſtaſie from Chriſtianity, Hereſies, Schiſms, Ordering, Admiſſions, Inſtitutions of Clerks, Celebration of Divine ſervice, Rights of Matrimony, Divorces, general Baſtardy, ſubtraction and right of Tithes, Oblations, Obventions, Dilapidations, Reparation of Churches, Probate of Teſtaments, Adminiſtrations, and accounts upon the ſame, Simony, Inceſts, Fornications, Adulteries, Solicitation of Chaſtity, Pentions, Procurations, Appeals in Eccleſiaſticall

What cauſes belong to the Eccleſiaſticall Court. See Circumſpectè agatis, 13 *E.* 1. *W.* 2. 13 *E.* 1. *cap.* 5. *verſus finem.* Artic. cleri 9 *E.* 2. 15 *E.* 3. *c.* 6. 31 *E.* 3.

cleſiaſticall cauſes, Commutation of penance, and others, (the conuſance whereof belong not to the Common Laws of *England*) the ſame are to be determined and decided by Eccleſiaſticall Judges, according to the King's Eccleſiaſtical Laws of this Realm. For as the *Romans*, fetching divers Laws from *Athens*, yet being approved and allowed by the State there, called them notwithſtanding *Jus Civile Romanorum*; and as the *Normans*, borrowing all or moſt of their Laws from *England*, yet baptized them by the name of the Laws or Cuſtomes of *Normandy*: So albeit the Kings of *England* derived their Eccleſiaſticall Laws from others, yet ſo many as were proved, approved and allowed here, by and with a general conſent, are aptly and rightly called *The King's Eccleſiaſticall Laws of England*; which whoſoever ſhall deny, he denieth that the King hath full and plenary power to deliver Juſtice in all cauſes to all his ſubjects, or to puniſh all crimes and offences within his Kingdome; for that, as before it appeareth, the deciding of matters ſo many, and of ſo great importance, are not within the conuſance of the Common Laws: and conſequently, that the King is no compleat Monarch, nor Head of the whole and entire Body of the Realm. But to confirm thoſe that hold the truth, to ſatisfy ſuch as being not inſtructed know not the ancient and modern Laws and Cuſtomes of *England*, every man being perſwaded as he is taught; theſe few demonſtrative proofs out of the Laws of *England*, in ſtead of many, in order, *& ſerie temporum*, are here added.

cap. 11. 2 *H.* 5. *c.* 7. 1 *H.* 7. *cap.* 4. 23 *H.* 8. *cap.* 9. 24 *H.* 8. *c.* 12. 27 *H.* 8. *c.* 20. 32 *H.* 8. *c.* 7. 1 *E.* 6. *ca.* 2. 2 *E.* 6. *ca.* 13. 1 *Ma. cap.* 3. 1 *Eliz. ca.* 1. 5 *Eliz ca.* 23. 13 *Eliz. ca.* 10. *Litt. lib.* 2. *ca. Frankalm. fol.* 30. *F. Na. Br. fol.* 41, 42, 43, 44, 45, 46, 47. *Regiſt. fol.* 33, 34, 44, *&c.*

KEnulphus *Rex, &c. per Literas ſuas patentes, conſilio & conſenſu Epiſcoporum & Senatorum gentis ſuæ, largitus fuit Monaſterio de Abnidon in Comitatu Bark. ac cuidam Ruchnio tunc Abbati Monaſterii, &c. quandam ruris ſui portionem, id eſt, quindecim Manſias, in loco qui à Ruricolis tunc nuncupabatur Culnam, cum omnibus utilitatibus ad eandem pertinentibus, tam in magnis quam in modicis rebus, in æternam hæreditatem. Et quod prædictus Ruchnius, &c. ab omni Epiſcopali Jure in ſempiternum eſſe quietus, ut inhabitatores ejus nullius Epiſcopi aut ſuorum officialium jugo inde deprimantur, ſed in cunctis rerum eventibus & diſcuſſionibus*

This King reigned an. Dom. 755. *Stanford lib.* 3. *cap.* 38. *fol* 111. *This charter was pleaded* 1 H. 7. 23. 25.

Not 3.

discussionibus causarum Abbatis Monasterii prædicti decreto subjiciantur. Ità quòd, &c. As by the said Charter pleaded in 1 *Henr.* 7. and vouched by *Stamford*, at large appeareth: which Charter, granted above 850 years sithence, was after confirmed *per Edwinum Britanniæ Anglorum Regem & Monarcham.* By which it appeareth that the King by his Charter made in Parliament (for it appeareth to be made by the counsell and content of his Bishops and Senators of his Kingdome which were assembled in Parliament) did discharge and exempt the said Abbot from the Jurisdiction of the Bishop, &c. and by the same Charter did grant to the said Abbot Ecclesiasticall Jurisdiction within his said Abbey: which Ecclesiasticall Jurisdiction being derived from the Crown, continued untill the Dissolution of the said Abbey in the Reign of King *Henry* the Eighth.

Rex Edwin. regnavit anno Dom. 955.

In the Reign of King Edward *the Confessor.*

St K. Edw. laws, ca. 19.

THe King, who is the Vicar of the Highest King, is ordained to this end, that he should govern and rule the Kingdome and people of the Land, and above all things the Holy Church, and that he defend the same from wrongdoers, and destroy and root out workers of mischief. And this shall suffice for many before the Conquest.

In the Reign of King William *the First.*

7 E. 3. tit. Quare Impedit 19.

IT is agreed that no man can make any Appropriation of any Church having Cure of Souls, being a thing Ecclesiastical, and to be made to some person Ecclesiastical, but he that hath Ecclesiastical Jurisdiction: But *William* the First, of himself, without any other, (as King of *England*,) made Appropriation of Churches with Cure to Ecclesiastical persons: Wherefore it followeth that he had Ecclesiasticall Jurisdiction.

In

In the Reign of King Henry *the Firſt.*

HEnry by the Grace of God King of *England*, Duke of *Normans*, To all Archbiſhops, Biſhops, Abbots, Earls, Barons, and to all Chriſtians as well preſent as to come, *&c.* We do ordain, as well in regard of Eccleſiaſticall as Royall power, that whenſoever the Abbot of *Reading* ſhall die, that all the poſſeſſion of the Monaſtery, whereſoever it is, do remain entire and free, with all the rights and cuſtoms thereof, in the hands and diſpoſition of the Prior and Monks of the Chapter of *Reading*. We do therefore ordain and eſtabliſh this Ordinance to be obſerved for ever: becauſe the Abbot of *Reading* hath no Revenues proper and peculiar to himſelf, but common with his brethren; whoſoever by God's will ſhall be appointed Abbot in this place by Canonicall election, may not diſpend the Alms of the Abbey by ill uſage with his ſecular kinſmen, or any other, but in entertaining the poor Pilgrims and Strangers, and that he have a care not to give out the Rent-lands in fee, neither that he make any Servitors or Souldiers but in the Sacred garment of Chriſt; wherein let him be adviſedly provident he entertain not young ones, but that he entertain men of ripe age or diſcreet, as well Clerks as Lay-men.

The Charter of H. 1. Founder of the Abbey of Reading, in the 26. year of his reign, and in the year of our Lord 1125.

In the Reign of King Henry *the Third.*

IN all the time of *H.* 3. and his Progenitors Kings of *England*, and ever ſithence, if any man did ſue afore any Judge Eccleſiaſticall within the Realm for any thing whereof that Court by allowance and cuſtome had not lawful conuſance, the King did ever by his Writ under his great Seal prohibit them to proceed: And if the ſuggeſtion made to the King, whereupon the Prohibition was grounded, were after found untrue, then the King by his Writ of Conſultation under his great Seal did allow and permit

2 H. 3. Tit. Prohibition 13. 4 H. 3. ibidem 15. 15 H. 3. Tit. Prohib. 22. Regiſter fol.

them to proceed. Alſo, in all the Reign of *H.* 3. and his Progenitors Kings of *England*, and ever ſithence, if any iſſue were joyned upon the loyalty of Marriage, general Baſtardy, or ſuch like, the King did ever write to the Biſhop of that Dioceſe, as mediate Officer and Miniſter to his Court, to certifie the loyalty of Marriage, Baſtardy, or ſuch like: all which do apparently prove, that thoſe Eccleſiaſtical Courts were under the King's Juriſdiction and commandment; and that one of the Courts were ſo neceſſarily incident to the other, as the one without the other could not deliver Juſtice to the parties, as well in theſe particular caſes, as in a number of caſes before ſpecified, whereof the King's Eccleſiaſticall Court hath Juriſdiction. Now to command and to be obeyed belong to Sovereign and Supreme Government.

By the ancient Canons and Decrees of the Church of *Rome*, the iſſue born before ſolemnization of marriage is as lawfully inheritable(marriage following) as the iſſue born after marriage: But this was never allowed or appointed in *England*, and therefore was never of any force here. And this appeareth by the Statute of *Merton*, made in the 20. year of King *Henry* the 3.

The Statute of Merton an. 20 H. 3.

To the King's Writ of Baſtardy, whether one being born afore matrimony may inherit in like manner as he that is born after matrimony, all the Biſhops anſwered, that they would not nor could not anſwer to it, becauſe it was directly againſt the common order of the Church. And all the Biſhops inſtanted the Lords, that they would conſent, that all ſuch as were born afore matrimony ſhould be legitimate, as well as they that be born within matrimony, as to the ſucceſſion of inheritance, forſomuch as the Church accepteth ſuch to be legitimate. And all the Earls and Barons with one voice anſwered, We will not change the Laws of *England* which hitherto have been uſed and approved.

In the Reign of King Edward *the Firſt.*

IN the Reign of King *Edward* the Firſt, a Subject brought in a Bull of Excommunication againſt another Subject of this Realm, and publiſhed it to the Lord Treaſurer of *England*: and this was by the ancient Common Law of *England* adjudged Treaſon againſt the King, his Crown and Dignity; for the which the offendor ſhould have been drawn and hanged, but at the great inſtance of the Chancellour and Treaſurer he was onely abjured the Realm for ever.

Vide 30 E. 3. *Li. Aſſ. pl.* 19. *Brook tit. Premunire pl.* 10. *Note, this was by the common Law of England before any Statute made.*

The ſaid King *Edward* the 1. preſented his Clerk to a Benefice within the Province of *York*, who was refuſed by the Archbiſhop, for that the Pope by way of Proviſion had conferred it on another. The King thereupon brought a *Quare non admiſit.* The Archbiſhop pleaded that the Biſhop of *Rome* had long time before provided to the ſaid Church, as one having ſupreme Authority in that caſe, and that he durſt not nor had power to put him out, which was by the Pope's Bull in poſſeſſion. For which his high Contempt againſt the King, his Crown and Dignity, in refuſing to execute his Sovereign's Commandment, fearing to doe it againſt the Pope's Proviſion, by judgement of the Common Law the Lands of his whole Biſhoprick were ſeized into the King's hands, and loſt during his life. Which Judgement was before any Statute or Act of Parliament was made in that caſe. And there it is ſaid, that for the like offence the Archbiſhop of *Canterbury* had been in worſe caſe by the judgement of the Sages of the Law, then to be puniſhed for a Contempt, if the King had not extended grace and favour to him.

19 E. 3. tit. *Quare non admiſit* 7. *Vide* 39 E. 3. 20.

Note.

Concerning men twice married, (called *Bigamy*) whom the Biſhop of *Rome* by a Conſtitution made at the Council of *Lions* hath excluded from all priviledge of Clergy, whereupon certain Prelates (when ſuch perſons have been attainted for Felons) have prayed for to have them delivered as Clerks which were made Bigamy before the ſame Conſtitution,

The Statute of Bigamie, anno 4 E. 1. *Obſerve how the King by advice of his Council (that is, by authori-*

ty of Parliament) expounded how the said Council should be understood, and in what sense it should be received and allowed here.

stitution; It is agreed and declared before the King and his Council, that the same Constitution shall be understood in this wise, That whether they were Bigamy before the same Constitution or after, they shall not from henceforth be delivered to the Prelates, but Justice shall be executed upon them as upon other Lay people.

Statutum de anno 25 E.1. Carliſle. Vide 20 E.3. tit. Eſſoin 24.

In an Act made at a Parliament holden at *Carlile* in the 25. year of the said King *Ed.* the First, it is declared, That the Holy Church of *England* was founded in the state of Prelacy within this Realm of *England* by the King and his Progenitors, *&c.* for them to inform the people in the Law of God, and to keep Hospitality, give Alms, and doe other works of Charity, *&c.* And the said Kings in times past were wont to have the Advice and Counsel, for the safeguard of the Realm, when they had need, of such Prelates and Clerks so advanced. The Bishop of *Rome*, usurping the Seigniories of such Benefices, did give and grant the same Benefices to Aliens which did never dwell in *England*, and to Cardinals which might not dwell here, *&c.* in adnullation of the state of the Holy Church of *England*, disherison of the King, Earls, Barons and other Nobles of the Realm, and in offence and destruction of the Laws and Rites of this Realm, and against the good disposition and will of the first Founders. It was enacted by the King, by assent of all the Lords and Comminalty in full Parliament, That the said Oppressions, Grievances and Dammages in this Realm from thenceforth should not be suffered, as more at large appeareth by that Act.

Nota: The first attempt was to usurp upon such Ecclesiasticall things as pertained to the Clergy of England, who at that time stood in great awe of the Church of Rome.

In the Reign of King Edward *the Second.*

The Statute of 9 E.2. Artic. Cleri cap. 16.

See the Ordinance of Circumspectè agatis an.

ALbeit by the Ordinance of *Circumspectè agatis*, made in the 13. year of *Edw.* 1. and by general allowance and usage, the Eccleſiasticall Court held plea of Tithes, Obventions, Oblations, Mortuaries, Redemptions of penance, Laying of violent hands upon a Clerk, Defamations, *&c.* yet did not the Clergy think themselves assured nor quiet

quiet from Prohibitions purchaſed by Subjects, untill that King *Edw.* the 2. by his Letters Patents under the great Seal, in and by conſent of Parliament, upon the Petitions of the Clergy, had granted unto them to have Juriſdiction in thoſe caſes. The King in a Parliament holden in the 9. year of his Reign, after particular Anſwers made to their Petitions concerning the matters aboveſaid, doth grant and give his Royall Aſſent in theſe words.

13 *E.1. to this effect. By this Statute of 9 Ed. 2. and the Statutes of* 15 *E.3. cap.* 3. 31 *E.3. cap.* 11. *and by other Statutes heretofore mentioned, the Juriſdiction of the Eccleſiaſticall Court is allowed and warranted by conſent of Parliament in all caſes wherein they now have Juriſdiction, ſo as theſe Laws may be juſtly called the King's Eccleſiaſticall Laws, or the Eccleſiaſticall Laws of England.*

" We deſiring as much as of right we may to provide for " the ſtate of the Church of *England*, and the tranquillity " and quiet of the Prelates of the ſaid Clergy, to the honour " of God, and the amendment of the ſtate of the ſaid " Church, and of the Prelates and Clergy, ratifying and " approving all and ſingular the ſaid Anſwers which appear " in the ſaid Act, and all and ſingular things in the ſaid " Anſwers contained, We do for us and our Heirs, grant " and command that the ſame be inviolably kept for ever: " Willing and granting for us and our Heirs, That the ſaid " Prelates and Clergy, and their Succeſſors for ever, do ex- " erciſe Eccleſiaſticall Juriſdiction in the premiſſes accor- " ding to the tenour of the ſaid Anſwer.

In the Reign of King Edward *the Third.*

AN Excommunication by the Archbiſhop, albeit it be diſannulled by the Pope or his Legates, is to be allowed; neither ought the Judges to give any allowance of any ſuch Sentence of the Pope or his Legate.

16 *E.3. Tit. Excom.* 4.

It is often reſolved that all the Biſhopricks within *England* were founded by the King's Progenitors, and therefore the Advowſons of them all belong to the King, and at the firſt they were donative. And that if an Incumbent of any Church with Cure die, if the Patron preſent not within 6 months, the Biſhop of that Dioceſe ought to collate, to the end the Cure may not be deſtitute of a Paſtor: If he be negligent by the ſpace of 6 months, the Metropolitan of that Dioceſe ſhall confer one to that Church: And if he alſo

In the Reign of E.3.

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leave the Church deſtitute by the ſpace of 6 months, then the Common Law giveth to the King, as to the Supreme within his own Kingdome, and not to the Biſhop of *Rome*, power to provide a competent Paſtor for that Church.

17 E.3.23. The King may not onely exempt any Eccleſiaſticall perſon from the Juriſdiction of the Ordinary, but may grant unto him Epiſcopal Juriſdiction. As thus it appeareth there the King had done of ancient time to the Archdeacon of *Richmond*.

20 E.3 Excom.9. 16 E.3.tit.Bre. 660. 21 E.3. 60. 6 H.7. 14.Fit.Na. Br. All Religious or Eccleſiaſticall Houſes whereof the King was Founder are by the King exempt from ordinary Juriſdiction, and onely viſitable and corrigible by the King's Eccleſiaſticall Commiſſion.

20 E.3.Tit. Excom.6. The Abbot of *Bury* in *Suffolk* was exempted fron Epiſcopall Juriſdiction by the King's Charter.

21 E.3.fol. 40. The King preſented to a Benefice, and his Preſentee was diſturbed by one that had obtained Bulls from *Rome*; for which offence he was condemned to perpetuall impriſonment, *&c.*

22 E.3.lib. Aſſ.pl.75. Tithes ariſing in places out of any Pariſh the King ſhall have, for that he, having the Supreme Eccleſiaſtiicall Juriſdiction, is bound to provide a ſufficient Paſtor that ſhall have the Cure of ſouls of that place which is not within any Pariſh. And by the Common Laws of *England* it is evident that no man, unleſſe he be Eccleſiaſticall, or have Eccleſiaſticall Juriſdiction, can have inheritance of Tithes.

27 E.3.fol. 84.Fit.Na. Br. fol.34. The King ſhall preſent to his free Chappels (in default of the Dean) by Lapſe in reſpect of his Supreme Eccleſiaſticall Juriſdiction. And *Fitzherbert* ſaith, that the King in that caſe doth preſent by Lapſe as Ordinarie.

30 E.3.lib. Aſſ.pl.19. 18 H.4.16. 14 H.4.14. 8 H.6.fol.3. 35 H.6.42. 28 H.6.1. 7 E.4.14. 12 E.4.16. An Excommunication under the Pope's Bull is of no force to diſable any man within *England*: And the Judges ſaid, that he that pleadeth ſuch Bulls, though they concern the Excommunication of a Subject, were in a hard caſe, if the King would extend his juſtice againſt him. If Excommunication, being the extreme and final end of any Suit in the Court at *Rome*, be not to be allowed within *England*, it conte-

conſequently followeth, that by the ancient Common Laws of *England*, no Suit for any Cauſe, though it be ſpiritual, ariſing within this Realm, ought to be determined in the Court of *Rome*, *Quia fruſtrà expectatur eventus, cujus effectus nullus ſequitur*. And that the Biſhops of *England* are the immediate Officers and Miniſters to the King's Courts.

Fit. Na. Br. fol. 64. F. Vide 9 E. 4. fol. 3. Hereafter fol. 11. It ought to be determined in the Eccleſiaſticall Courts in England.

In an Attachment upon a Prohibition, the Defendant pleaded the Pope's Bull of Excommunication of the Plaintif. The Judges demanded of the Defendant, if he had not the Certificate of ſome Biſhop within the Realm teſtifying this Excommunication. To whom the Counſell of the Defendant anſwered, that he had not, neither was it as they ſuppoſed neceſſarie; for that the Bulls of the Pope under Lead were notorious enough. But it was adjudged that they were not ſufficient, for that the Court ought not to have regard to any Excommunication out of the Realm: And therefore by the rule of the Court the Plaintif was nor thereby diſabled.

31 E. 3. Tit. Excom.

Reges ſacro oleo uncti ſunt Spiritualis Juriſdictionis capaces.

33 E. 3. tit. Prohibition de Roy 103.

Where a Prior is the King's debtor, and ought to have Tithes of another Spiritual perſon, he may chuſe either to ſue for ſubtraction of his Tithes in the Eccleſiaſtical Court, or in the Exchequer, and yet the perſons and matter alſo were Eccleſiaſtical. For ſeeing the matter by a mean concerneth the King, he may ſue for them in the Exchequer as well as in the Eccleſiaſtical Court, and there ſhall the right of Tithes be determined. And *Fitzherbert* in his *Natbre. fol.* 30. holdeth, that before the Statute of 18 *E.* 3. *cap.* 7. right of Tithes were determinable at the Temporal Courts at the election of the party; and by that Statute aſſigned to be determined in the Eccleſiaſtical Court, and the Temporal Court excluded thereof. And the Courts of divers Mannors of the King's, and of other Lords, in ancient times had the Probates of laſt Wills and Teſtaments. And it appeareth by 11 *H.* 7. *fol.* 12. that Probate of Teſtaments did not appertain to the Eccleſiaſticall Court, but that of late time they were determinable there. So as of ſuch Cauſes, and in ſuch manner as the Kings of

38 Aſſ. pl. 20.

See the Statute of 25 H. 8. cap. 6. 31 E. 3. cap. 11.

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the Realm by general conſent and allowance have aſſigned to their Eccleſiaſticall Courts, they have Juriſdiction by force of ſuch allowance.

38 *Lib. Aſſ. pl.22.* The King did by his Charter tranſlate Canons Secular into Regular and Religious perſons, which he did by his Eccleſiaſticall Juriſdiction, and could not doe it unleſſe he had Juriſdiction Eccleſiaſticall.

45 *E.3. Tit. Premun.6.* The Abbot of *Waltham* died in the 45. year of *E.3.* and one *Nicholas Morris* was elected Abbot, who, for that the Abbey was exempt from ordinary Juriſdiction, ſent to *Rome* to be confirmed by the Pope: And becauſe the Pope by his Conſtitutions had reſerved all ſuch Collations to himſelf, he did recite by his Bull, that he, having no regard to the Election of the ſaid *Nicholas*, gave to him the ſaid Abbey, and the Spiritualties and Temporalties belonging to the ſame, of his ſpirituall grace, and at the requeſt (as he feigned) of the King of *England*. This Bull was read and conſidered of in Councill, that is, before all the Judges of *England:* and it was reſolved by them all, that this Bull was againſt the Laws of *England*, and that the Abbot for obtaining the ſame was fallen into the King's mercy: whereupon all his poſſeſſions were ſeiſed into the King's hands, as more at large by the ſaid Caſe appeareth.

49 *E.3. Lib. Aſſ. pl.8.* Where the Abbot of *Weſtminſter* had a Prior and Convent who were Regular and mort in law, yet the King by his Charter did divide that Corporation, and made the Prior and Convent a diſtinct and capable Body to ſue and be ſued by themſelves.

Statut. de 25 E. 3. de Proviſoribus. At a Parliament holden in the 25. year of King *Edward* the Third, it was enacted by conſent of the whole Parliament, That as well they that obtained Proviſions from *Rome*, as they that put them in execution, ſhould be out of the King's protection; and that a man might doe with them as with the enemies of the King; And he that offendeth againſt ſuch Proviſors in body, goods, or other poſſeſſions, ſhould be excuſed againſt all people, and ſhould never be impeached or grieved for the ſame. By which Law every man might lawfully kill ſuch an Offendor, as a com-

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mon enemy againſt the King and his Countrey, ſo hainous were ſuch offences then holden.

Afterwards, in the ſame 25. year of King *Edward* the Third, it was in open Parliament by the grievous complaints of all the Commons of this Realm ſhewed, that the Grievances and Miſchiefs aforeſaid did daily abound, to the great dammage and deſtruction of all this Realm, more then ever before. *viz.* That of late the Biſhop of *Rome*, by procurement of Clerks and otherwiſe, had reſerved and did daily reſerve to his Collation, generally and ſpecially, as well Archbiſhopricks, Abbies and Priories, as all other Dignities and other Benefices of *England*, which were of the Advowrie of people of Holy Church, and gave the ſame as well to Aliens as to Natives, and did take of all ſuch Benefices the Firſt-fruits, and many other Profits; and a great part of the Treaſure of the Realm was carried away and diſpended out of the Realm by the purchaſors of ſuch graces: and alſo by ſuch privy Reſervations, many Clerks, advanced in the Realm by their true Patrons, which peaceably had holden their Advancements by long time, were ſuddenly put out. Whereupon the ſaid Commons did pray their ſaid Sovereign Lord the King, that ſithence the right of the Crown of *England* and the Law of the ſaid Realm was ſuch, that upon the miſchiefs and dammages which happened to his Realm, he ought and was bound of the accord of his ſaid people thereof to provide remedie and law, for the avoiding the miſchiefs and dammage which thereof came, that it might pleaſe him thereupon to ordain remedy. The ſaid King *Ed.* the 3. ſeeing the miſchiefs and dammage before named, and having regard to the Statute made in the time of his Grandfather King *Ed.* 1. and to the cauſes contained in the ſame, which Statute holdeth always his force, and was never defeated nor adnulled in any point; and foraſmuch as he was bound by his Oath to ſee the ſame to be kept as a Law of this Realm, though that by ſufferance and negligence it had been ſithence attempted to the contrary; alſo having regard to the grievous complaints made to him by his people in divers his Parliaments holden heretofore, willing to ordain remedy for the great dammage and miſchiefs which had

Statut. de 25 E. 3.

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had happened, and daily did happen, to the Church of *England* by the ſaid cauſe; by the aſſent of all the Great men and the Commonalty of the ſaid Realm, to the honour of God, and profit of the ſaid Church of *England*, and of all his Realm, did order and eſtabliſh, That the free Election of Archbiſhops, Biſhops, and all other Dignities and Benefices electory in *England*, ſhould hold from thenceforth in the manner as they were granted by the King's Progenitors, and founded by the Anceſtors of other Lords: And that all Prelates, and other people of Holy Church, which had Advowſons of any Benefices of the King's gift, or of any of his Progenitors, or of other Lords and Donors, to doe Divine Service and other charges thereto pertaining, ſhould have their Collations and Preſentments freely, in the manner as they were infeoffed by their Donors: And in caſe that Reſervation, Collation or Proviſion be made by the Court of *Rome* of any Archbiſhoprick, Biſhoprick, Dignity, or other Benefice, in diſturbance of the Elections, Collations or Preſentations afore named, That at the time of the Avoidance, that ſuch Reſervations, Collations and Proviſions ought to take effect, the ſaid King *Edward* the Third and his Heirs ſhould have and enjoy the ſame Collations to the Archbiſhopricks and other Dignities elective, which be of his Avowry, as his Progenitors did before that free Election was granted, ſithence that the Elections were firſt granted by the King's Progenitors upon a certain form and condition, as to demand licence of the King to chuſe, and after the Election to have his Royall Aſſent, and not in other manner: which conditions not kept, the King ought by reaſon to reſort to the firſt nature, as by the ſaid Act more at large appeareth.

Vide 10 E.3. *fol.* 1. & 2.

Statutum de 27 E.3.

In the 27. year of the Reign of the ſame King it was grievouſly complained to the King in a Parliament then holden, by the Great men and Commons of the Realm, how that divers of the people were and had been drawn out of the Realm to anſwer to things whereof the conuſance pertained to the King's Court, and alſo that the Judgments given in the ſame Court were impeached in other Courts,

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in prejudice and diſheriſon of the King and of his Crown, and of all the people of his ſaid Realm, and to the undoing and deſtruction of the Common Law of the ſame Realm at all times uſed. Whereupon good deliberation being had with the Great men and others of his ſaid Council, it was aſſented and accorded by the King and the Great men and Commons aforeſaid, That all the people of the King's allegeance, of what condition that they be, which ſhould draw any out of the Realm, for plea whereof the conuſance pertained to the King's Court, or for things whereof Judgments were given in the King's Court, or which did ſue in any other Court, to defeat or impeach the Judgments given in the King's Courts, ſhould incur the danger of *Premunire*, as by the ſaid Act appeareth.

To nouriſh love, peace and concord between Holy Church and the Realm, and to appeaſe and ceaſe the great hurt and perils and importable loſſes and grievances that had been done and happened in times paſt, and that ſhould happen hereafter, if the thing from thenceforth be ſuffered to paſs, becauſe of perſonal Citations, and other that be paſſed before this time, and commonly did paſſe from day to day out of the Court of *Rome*, by feigned and falſe Suggeſtions and Propoſitions againſt all manner of perſons of the Realm, upon Cauſes whoſe cogniſance and final diſcuſſing pertained unto the King and his Royal Court; and alſo of Impetrations and Proviſions of Benefices and Offices of Holy Church pertaining to the gift, preſentation, donation and diſpoſition of the King, and other Lay Patrons of this Realm, as of Churches, Chappels, and other Benefices appropriated to Cathedrall Churches, Abbies, Priories, Chauntries, Hoſpitalls, and other poor Houſes, and of other Dignities, Offices and Benefices occupied in times paſt, and preſented by divers and notable perſons of the ſaid Realm: for which cauſes, and diſpenſing whereof, the good ancient Laws, Uſages, Cuſtomes and Franchiſes of the ſaid Realm had been and were greatly appaired, blemiſhed and confounded, the Crown of their Soveraign Lord the King miniſhed, and his Perſon falſely defamed, his Treaſury and Riches of the

Statut. de 28 E. 3. cap. 1. & 2.

Realm carried away, the inhabitants and ſubjects of the Realm impoveriſhed and troubled, the Benefices of Holy Church waſted and deſtroyed, Divine Service, Hoſpitalities, Alms-deeds and works of charity withdrawn and ſet apart, the Commons and Subjects of the Realm in body and goods conſumed: The King at his Parliament holden at *Weſtminſter* in the *Utas* of S. *Hillary*, the 38. year of his Reign, having regard to the quietneſs of his people, which he chiefly deſired to ſuſtain in tranquillity and peace, to govern according to the Laws, Uſages and Franchiſes of his Land, as he was bound by his Oath made at his Coronation, following the ways of his Progenitors, which for their time made certain good Ordinances and Proviſions againſt the ſaid Grievances and Perils; which Ordinances and Proviſions, and all the other made in his time, and eſpecially in the 25. and 27. years of his Reign, the King by the aſſent and expreſſe will and concord of the Dukes, Earls, Barons, and the Commons of this Realm, and of all other whom theſe things touched, by good and meet deliberation and adviſement, did approve, accept, and confirm, as by the ſaid Act appeareth.

Statut. de 38 E. 3. ca. 3.

But thoſe which ſhould execute the ſaid good Laws againſt ſuch capitall Offendors were curſed, reproved and defamed, by ſuch as maintained the uſurped Juriſdiction of the Biſhop of *Rome*: Againſt which an eſpecial Act of Parliament was made by the King and his whole Realm, prohibiting thereby ſuch Defamations and Reproofs.

In the Reign of King Richard *the Second.*

12 R. 2. tit. Juriſdiction 18.

AGainſt an Incumbent of a Church in *England* another ſueth a Proviſion in the Court of *Rome*, and there purſueth untill he recovereth the Church againſt the Incumbent, and after brought an Action of Account againſt him, as receiver of divers ſums of money, (which in troth were the Oblations and Offerings which the Incumbent had received.)

ceived.) And the whole Court was of opinion againſt the Plaintif, and thereupon he became non-ſuit.

It is declared by that Parliament, that the Crown of *England* hath been ſo free at all times, that it hath been in ſubjection to no Realm, but immediately ſubject to God, and none other; and that the ſame ought not in any thing touching the Regalty of the ſame Crown be ſubmitted to the Biſhop of *Rome*, nor the Laws and Statutes of this Realm by him fruſtrated or defeated at his will, to the perpetuall deſtruction of the King, his Sovereignty, Crown and Regalty, and of all his Realm. And the Commons in that Parliament affirmed, that the things attempted by the Biſhop of *Rome* be clearly againſt the King's Crown and his Regalty, uſed and approved in the time of all his Progenitors. Wherefore they and all the liege Commons of the ſame Realm would ſtand with the King and his ſaid Crown, and his Regalty, in the caſes aforeſaid, and in all other caſes attempted againſt him, his Crown and his Regalty, in all points to live and to die. And moreover they did pray the King, and him required by way of juſtice, that he would examine all the Lords in the Parliament, as well Spiritual as Temporal, ſeverally, and all the States of the Parliament, how they thought of the caſes aforeſaid, which were ſo openly againſt the King's Crown, and in derogation of his Regalty, and how they would ſtand in the ſame caſes with the King, in upholding the Rights of the ſaid Crown and Regalty. Whereupon the Lords Temporal ſo demanded did anſwer every one by himſelf, That the caſes aforeſaid were clearly in derogation of the King's Crown and of his Regalty, as it was well known, and had been of long time known; and that they would ſtand with the ſame Crown and Regalty in thoſe caſes eſpecially, and in all other caſes which ſhould be attempted againſt the ſaid Crown and Regalty, in all points, with all their power. And moreover then was demanded of the Lords Spiritual there being, and the Procurators of others being abſent, their advice and will in all thoſe caſes: which Lords, that is to ſay, the Archbiſhops, Biſhops and other Prelates, being in

Statutum de 16 R. 2. cap. 5.

Note.

in the Parliament ſeverally examined, making proteſtations that it was not their mind to deny or affirm that the Biſhop of *Rome* might not excommunicate Biſhops, nor that he might make Tranſlation of Prelates after the Law of Holy Church, anſwered and ſaid, That if any Executions or Proceſſes in the King's Court, as before, were made by any, and cenſures of Excommunications be made againſt any Biſhop of *England*, or any other of the King's liege people, for that they had made execution of ſuch commandments; and that if any executions of ſuch Tranſlations be made of any Prelats of the ſame Realm, which Prelats were very profitable and neceſſary to the King and to his ſaid Realm; or that his ſage men of his Council without his aſſent and againſt his will be withdrawn and eloigned out of the Realm, ſo that the ſubſtance and Treaſury of the Realm might be deſtroyed; that the ſame was againſt the King and his Crown, as it was contained in the Petition before named. And likewiſe the ſame Procurators, every one by himſelf examined upon the ſaid matters, did anſwer and ſay in the name and for their Lords as the ſaid Biſhops had ſaid and anſwered: And that the ſaid Lords Spiritual would and ought to ſtand with the King in theſe caſes, lawfully in maintaining of his Crown, and in all other caſes touching his Crown and his Regalty, as they were bound by their Allegeance. Whereupon the King by the aſſent aforeſaid, and at the prayer of his ſaid Commons, did ordain and eſtabliſh, That if any purchaſe or purſue, or cauſe to be purchaſed or purſued, in the Court of *Rome* or elſewhere, any ſuch Tranſlations, Proceſſes and Sentences of Excommunication, Bulls, Inſtruments, or any other things which touched the King their Lord, againſt him, his Crown and his Regalty, or his Realm, as is aforeſaid, and they which bring them within the Realm, or them receive, or make thereof notification, or any other execution, within the ſame Realm or without, that they, their notorious procurators, maintainers, fautors and counſellors, ſhould be put out of the King's protection, and their lands and tenements, goods and chattels forfeit to the King, and they be attached by their bodies,

bodies, if they may be found, and brought before the King and his Council, there to anſwer to the caſes aforeſaid; or that proceſſe be made againſt them by *Premunire facias*, as it is ordained in other Statutes of Proviſors, and others which do ſue in any other Court in derogation of the Regalty of the King, as by the ſaid Act alſo appeareth.

In the Reign of King Henry *the Fourth.*

IT is reſolved that the Pope's Collector, though he have the Pope's Bulls for that purpoſe, hath no Juriſdiction within this Realm: and there the Archbiſhops and Biſhops, *&c.* of this Realm are called the King's Spirituall Judges. 1 *H.* 4. *fol.* 7.

By the ancient Laws Eccleſiaſticall of this Realm, no man could be convicted of Hereſie, being high Treaſon againſt the Almighty, but by the Archbiſhop and all the Clergy of that Province, and after abjured thereupon, and after that newly convicted and condemned by the Clergy of that Province, in their general Council of Convocation: But the Statute 2 *H.* 4. *cap.* 15. doth give the Biſhop in his Dioceſe power to condemn an Heretick. And before that Statute he could not be committed to the Secular power to be burnt, untill he had once abjured, and was again relapſed to that or ſome other Hereſie. Whereby it appeareth that the King by conſent of Parliament directed the proceedings in the Eccleſiaſticall Court in caſe of Hereſie, and other matters more ſpirituall. *Fitz. Nat. Br.* 269. *This had a reſemblance to an Attainder of Treaſon, wherein there muſt be firſt an Inditement by one Jury, and a Conviction by another.*

The Pope cannot alter the Laws of *England*. 11 *H.* 4. 37.

The Judges ſay, that the Statutes which reſtrain the Pope's Proviſions to the Benefices of the Advowſons of Spiritual men were made, for that the Spiritualty durſt not in their juſt cauſe ſay againſt the Pope's Proviſions: So as thoſe Statutes were made but in affirmance of the Common Laws. 11 *H.* 4. *fol.* 69, 70.

Excommunication made by the Pope is of no force in *England*, 14 *H.* 4. *fol.* 14. *Vide* 30 *E.* 3. *lib. Aſſ.*

pl. 19. *before.* *land*, and the ſame being certified by the Pope into any
Vide 13 *E.* 3. Court in *England* ought not to be allowed; neither is any
Certificate 6. Certificate of any Excommunication available in law, but
Vide 20 *H.*6. what is made by ſome Biſhop of *England*: for the Biſhops
1. 37 *H.*6. are by the Common Laws the immediate Officers and Mi-
42. 7 *E.* 4. niſters of juſtice to the King's Courts in Cauſes Eccleſiaſti-
14. *Fitz. Na.* call.
Br. 64. *F.*

14 *H.* 4. 14. If any Biſhop do excommunicate any perſon for a Cauſe that belongeth not unto him, the King may write unto the Biſhop, and command him to aſſoil and abſolve the party.

Statut. de If any perſon of Religion obtain of the Biſhop of *Rome* to
2 *H.* 4. *cap.* 3. be exempt from obedience Regular or ordinary, he is in caſe of *Premunire*, which is an offence, as hath been ſaid, *contra Regem, Coronam & Dignitatem ſuas.*

Statut. de The Commons did grievouſly complain to the King, at
6 *H.* 4 *cap.* 1. the Parliament holden in the 6. year of *H.* 4. of the horrible miſchiefs and damnable cuſtomes which then were introduct of new in the Court of *Rome*, that no perſon, Abbot or other, ſhould have proviſion of any Archbiſhoprick or Biſhoprick which ſhould be void, till he had compounded with the Pope's Chamber, to pay great and exceſſive ſums of money, as well for the Firſt-fruits of the ſame Archbiſhoprick or Biſhoprick, as for the other leſſe Services in the ſame Court; and that the ſame ſums, or the greater part thereof, be paid beforehand; which ſums paſſed the treble or the double at the leaſt of that that was accuſtomed of old time to be paid in the ſaid Chamber and otherwiſe by the occaſions of ſuch Proviſions: whereby a great part of the Treaſury of this Realm had been brought and carried to the ſaid Court, and alſo ſhould be in time to come, to the great impoveriſhing of the Archbiſhops and Biſhops within the ſame Realm, and elſewhere within the King's dominions, if convenient remedy were not for the ſame provided. The King, to the honour of God, as well to eſchew the dammage of this Realm, as the perils of their ſouls which owen to be advanced to any Archbiſhopricks and Biſhopricks within the Realm of *England*, and elſewhere within the

King's

King's dominions out of the ſame Realm, by the advice and aſſent of the Great men of his Realm in the Parliament, did ordain and eſtabliſh, That they and every of them that ſhould pay to the ſaid Chamber or otherwiſe, for ſuch Fruits and Services, greater ſums of mony then had been accuſtomed to be paid in old time paſt, they and every of them ſhould incur the forfeiture of as much as they may forfeit towards the King, as by the ſaid Act appeareth.

No perſon, Religious or Secular, of what eſtate or condition that he were, by colour of any Bulls containing priviledges to be diſcharged of Tithes pertaining to Pariſh-churches, Prebends, Hoſpitals, Vicarages, purchaſed before the firſt year of King *Richard* the 2. or after, and not executed, ſhould put in execution any ſuch Bulls ſo purchaſed, or any ſuch Bulls to be purchaſed in time to come, upon the pain of a *Premunire*, as by the ſaid Act appeareth. *Statut. de 7 H. 4. cap. 6.*

In the Reign of King Henry *the Fifth.*

IN an Act of Parliament made in the third year of King *H.* 5. it is declared, That whereas in the time of King *H.* 4. Father to the ſaid King, in the 7. year of his Reign, to eſchew many diſcords and debates, and divers other miſchiefs, which were likely to ariſe and happen becauſe of many Proviſions then made, or to be made, by the Pope, and alſo of Licence thereupon granted by the ſaid late King, amongſt other things, it was ordained and eſtabliſhed, That no ſuch Licence or Pardon ſo granted before the ſame Ordinance, or afterwards to be granted, ſhould be available to any Benefice full of any Incumbent at the day of the date of ſuch Licence or Pardon granted; Neverthelefs divers perſons, having Proviſions of the Pope of divers Benefices in *England* and elſewhere, and Licences Royall to execute the ſame Proviſions, have, by colour of the ſame Proviſions, Licences and Acceptations of the ſaid Benefices, ſubtilly excluded divers perſons of their Benefices, in which they had been Incumbents by a long ſeaſon of the collation of the very Pa- *Statut. de 3 H. 5 caſ. 4.*

trons Spiritual, to them duely made to their intent, to the final deſtruction and enervation of the ſtates of the ſame Incumbents: The King, willing to void ſuch miſchiefs, hath ordained and eſtabliſhed, That all the Incumbents of every Benefice of Holy Church, of the Patronage, Collation or Preſentation of Spirituall Patrons, might quietly and peaceably enjoy their ſaid Benefices, without being inquieted, moleſted, or any ways grieved, by any colour of ſuch Proviſions, Licences and Acceptations; And that all the Licences and Pardons upon and by ſuch Proviſions made in any manner ſhou'd be void, and of no value; And if any feel himſelf grieved, moleſted, or inquieted, in any wiſe from thenceforth by any, by colour of ſuch Proviſions, Licences, Pardons, or Acceptations, that the ſame moleſtors, grievors or inquietors, and every of them, have and incurre the pains and puniſhments contained in the Statutes of Proviſors before that time made, as by the ſaid Act appeareth.

* *Stat. de 2 H. 5. cap. 7. Lollardry* à lolio: *For as Cockle is the deſtruction of the Corn, ſo is Hereſie the deſtruction of true Religion.*

* A Statute was made for extirpation of Hereſie and Lollardry, whereby full power and authority was given to the Juſtices of Peace, and Juſtices of Aſſiſe, to inquire of thoſe that hold Errours, Hereſies or Lollardry, and of their maintainers, &c. And that the Sheriffe or other Officer, &c. may arreſt and apprehend them.

Infelix lolium & ſteriles dominantur avenæ. Virgilius.

Et careant lolio oculos vitiantibus agri. Ovidius.

Statutum de 2 H. 5. cap. 1.

The King, by conſent of Parliament, giveth power to Ordinaries to enquire of the foundation, erection and governance of Hoſpitals, other then ſuch as be of the King's foundation, and thereupon to make correction and reformation according to the Eccleſiaſticall Law.

In the Reign of King Henry *the Sixth.*

8 H. 6. fol. 3.

EXcommunication made and certified by the Pope is of no force to diſable any man within *England*: And this is by the ancient Common Laws, before any Statute was made concerning forrein Juriſdiction.

The

The King onely may grant or licence to found a Spiritual Incorporation. 9 H.6. fol. 15.

In the Reign of King *Henry* the 6. the Pope writ Letters in derogation of the King and his Regalty, and the Churchmen durſt not ſpeak againſt them: But *Humfrey* Duke of *Glouceſter*, for their ſafe keeping, put them into the fire. 1 H.7. fol. 10.

In the Reign of King Edward *the Fourth.*

IN the Reign of King *Edward* the Fourth the Pope granted to the Prior of *Saint Johns* to have Sanctuary within his Priory; and this was pleaded and claimed by the Prior: But it was reſolved by the Judges, that the Pope had no power to grant any Sanctuary within this Realm, and therefore by judgement of the Law the ſame was diſallowed. 1 H.7. fol. 20.

There it appeareth, that the opinion of the King's Bench had been oftentimes, that if one Spiritual perſon ſue another Spiritual man in the Court of *Rome* for a matter ſpiritual, where he might have remedy before his Ordinary, that is the Biſhop of that Dioceſe within the Realm, *quia trahit ipſum in placitum extra regnum*, incurreth the danger of a *Premunire*, a hainous offence it being, *contra legiantiæ ſuæ debitum, in contemptum Domini Regis, & contra Coronam & dignitatem ſuas.* By which it appeareth how grievous an offence it was againſt the King, his Crown and Dignity, if any ſubject, although both the perſons and cauſe were Spirituall, did ſeek for juſtice out of the Realm, as though either there wanted Juriſdiction, or Juſtice was not executed in the Eccleſiaſtical Courts within the ſame; which (as it hath been ſaid) was an high offence, *contra Regem, Coronam & dignitatem ſuas.* 9 E.4.3. *Fitz. Na. Br. fol.* 44 *H. agreeth herewith.* *Note.*

In the King's Courts of Record, where Felonies are determined, the Biſhop or his Deputy ought to give his attendance, to the end that if any that is indicted and arraigned for Felony do demand the benefit of his Clergy, that the Ordinary may inform the Court of his ſufficiency or inſufficiency, 9 E.4.18.

ency, that is, whether he can reade as a Clerk or not; whereof notwithſtanding the Ordinary is not to judge, but is a miniſter to the King's Court; and the Judges of that Court are to judge of the ſufficiency or inſufficiency of the party, whatſoever the Ordinary doth inform them, and upon due examination of the party, may give judgement againſt the Ordinarie's information: for the King's Judges are Judges of the cauſe.

12 E. 4. fo. 16. The Pope's Excommunication is of no force within the Realm of *England*.

In the Reign of King *Edward* the Fourth, a Legate from the Pope came to *Calice*, to have come into *England*; but the King and his Council would not ſuffer him to come within *England*, until he had taken an oath that he ſhould attempt nothing againſt the King or his Crown: and ſo the like was done in his Reign to another of the Pope's Legates. And this is ſo reported in 1 *Henrici* 7. fol. 10.

In the Reign of King Richard *the Third.*

2 R. 3. fo. 22. IT is reſolved by the Judges, That a Judgement or Excommunication in the Court of *Rome* ſhould not bind or prejudice any man within *England* at the Common Law.

In the Reign of King Henry *the Seventh.*

1 H. 7. 10. IN the Reign of King *Henry* the 7. the Pope had excommunicated all ſuch perſons whatſoever as had bought Allum of the *Florentines*: And it was reſolved by all the Judges of *England*, that the Pope's Excommunication ought not to be obeyed or to be put in execution within the Realm of *England*.

Statut. de 1 *H.* 7. *cap.* 4. In a Parliament holden in the firſt year of King *Henry* the Seventh, for the more ſure and likely reformation of Prieſts, Clerks and Religious men, culpable or by their demerits openly

openly noiſed of incontinent living in their bodies, contrary to their Order, it was enacted, ordained and eſtabliſhed, by the advice and aſſent of the Lords Spiritual and Temporal, and the Commons in the ſaid Parliament aſſembled, and by authority of the ſame, That it be lawful to all Archbiſhops and Biſhops, and other Ordinaries, having Epiſcopal Juriſdiction, to puniſh and chaſtiſe Prieſts, Clerks and Religious men, being within the bounds of their Juriſdiction, as ſhall be convicted afore them by examination, and lawfull proof requiſite by the law of the Church, of Advoutrie, Fornication, Inceſt, or any other fleſhly Incontinency, by committing them to ward and priſon, there to abide for ſuch time as ſhall be thought to their diſcretions convenient for the quality and quantity of their treſpaſs: And that none of the ſaid Archbiſhops, Biſhops or Ordinaries aforeſaid, be thereof chargeable, of, to, or upon any action of falſe or wrongfull impriſonment, but that they be utterly thereof diſcharged in any of the caſes aforeſaid, by virtue of this Act.

Rex eſt perſona mixta, becauſe he hath both Eccleſiaſtical and Temporal Juriſdiction. 10 *H.*7.13.

By the Eccleſiaſtical Laws allowed within this Realm, a Prieſt cannot have two Benefices, nor can a Baſtard be a Prieſt; but the King may, by his Eccleſiaſticall power and Juriſdiction, diſpenſe with both of theſe, becauſe they be *mala prohibita*, and not *mala per ſe*. 11 *H.*7.12.

In the Reign of King Henry *the Eighth.*

BY an Act of Parliament made in the 24. year of King *Henry* the 8. that is to ſay, by the King, 24 Biſhops, 29 Abbots and Priors, for ſo many were then Lords of Parliament, by all the Lords Temporal and the Commons in that Parliament aſſembled, it is declared, That where by divers ſundry old authentick Hiſtories and Chronicles it was manifeſtly declared and expreſſed, that this Realm of *England* is an Empire, and ſo hath been accepted in the world, *Statut. de* 24 *H.*8.*cap.*12. *This Statute is declaratorie of the ancient laws of England, as manifeſtly appeareth by that which hath been ſaid.*

See Br. Abridgment, tit. Preſentment al Egliſe pl. 12. The Pope was permitted to doe certain things within this realm by uſurpation, and not of right, until the reign of H 8.

world, governed by one Supreme Head and King, having the Dignity and Royal eſtate of the Imperial Crown of the ſame, unto whom a Body politick compact of all ſorts and degrees of people, divided in terms and by names of Spiritualty and Temporalty, been bound, and ought to bear, next to God, a natural and humble obedience; he being alſo inſtitute and furniſhed by the goodneſs and furtherance of Almighty God with plenary, whole and entire Power, Preheminence, Authority, Prerogative and Juriſdiction, to render and yield Juſtice and final determination to all manner of folk reſiants or ſubjects within this his Realm, in all cauſes, matters, debates and contentions happening to occur, inſurge or begin within the limits thereof, without reſtraint or provocation to any forrein Princes or Potentates of the world: The Body Spiritual whereof having power, when any cauſe of the Law Divine happened to come in queſtion, or of Spiritual learning, that it was declared, interpreted and ſhewed by that part of the ſaid Body politick, called the *Spiritualty*, then being uſually called the *Engliſh Church*, which alwaies had been reputed and alſo found of that ſort, that both for knowledge, integrity, and ſufficiency of number, it had been always thought, and was alſo at that hour ſufficient and meet of it ſelf, without the intermeddling of any exteriour perſon or perſons, to declare and determine all ſuch doubts, and to adminiſter all ſuch offices and duties as to the rank ſpiritual did appertain. For the due adminiſtration whereof, and to keep them from corruption and ſiniſter affection, the King's moſt noble Progenitors, and the anteceſſors of the Nobles of this Realm, did ſufficiently indow the ſaid Church both with honour and poſſeſſions. And the Laws Temporal, for trial of property of lands and goods, and for the conſervation of the people of this Realm in unity and peace, without ravine or ſpoil, was adminiſtred, adjudged and executed by ſundry Judges and Miniſters of the other part of the ſaid Body politick, called the *Temporaltie*. And both their Authorities and Juriſdictions did conjoyn together in the due adminiſtration of Juſtice, the one to help the other. And

whereas

whereas the King, his moſt noble Progenitors, and the Nobility and Commons of the ſaid Realm, at divers and ſundry Parliaments, as well in the time King *Edward* the 1. *Edward* the 3. *Richard* the 2. *Henry* the 4. and other noble Kings of this Realm, made ſundry Ordinances, Laws, Statutes and Proviſions, for the entire and ſure conſervation of the Prerogatives, Liberties and Prehemineneces of the ſaid Imperial Crown of this Realm, and of the Juriſdiction Spiritual and Temporal of the ſame, to keep it from the annoiance as well of the See of *Rome*, as from the authority of other forrein Potentates, attempting the diminution or violation thereof, as often and from time to time as any ſuch annoiance or attempt might be known or eſpied: And notwithſtanding the ſaid good Statutes and Ordinances, made in the time of the King's moſt noble Progenitors, in preſervation of the Authority and Prerogative of the ſaid Imperiall Crown, as is aforeſaid; yet nevertheleſs ſithence the making of the ſaid good Statutes and Ordinances, divers and ſundry inconveniences and dangers, not provided for plainly by the ſaid former Acts, Statutes and Ordinances, have riſen and ſprung by reaſon of Appeals ſued out of this Realm to the See of *Rome*, in cauſes Teſtamentary, cauſes of Matrimony and Divorces, right of Tithes, Oblations and Obventions, not onely to the great inquietation, vexation, trouble, coſts and charges of the King's Highneſs and many of his ſubjects and reſiants in this his Realm, but alſo to the great delay and lett to the true and ſpeedy determination of the ſaid cauſes, foraſmuch as the parties appealing to the ſaid Court of *Rome* moſt commonly did the ſame for delay of Juſtice, and foraſmuch as the great diſtance of way was ſo far out of this Realm, that neither the neceſſary proofs nor the true knowledge of the cauſe could be ſo well known, or the witneſſes there ſo well examined, as within this Realm, ſo that the parties grieved by means of the ſaid Appeals were moſt times without remedy: In conſideration thereof, the King, his Nobles and Commons, conſidering the great enormities, dammages, long delaies and hurts, that as well to his Highneſs, as to his ſaid Noble

ſubjects,

ſubjects, Commons and reſiants of this his Realm, in the ſaid cauſes Teſtamentary, cauſes of Matrimony and Divorces, Tithes, Oblations and Obventions, did daily enſue, did therefore by his Royall aſſent, and by the aſſent of the Lords Spiritual and Temporal, and the Commons in that Parliament aſſembled, and by Authority of the ſame, enact, eſtabliſh and ordain, That all cauſes Teſtamentary, cauſes of Matrimony and Divorces, rights of Tithes, Oblations and Obventions, the knowledge whereof by the goodneſs of Princes of this Realm, and by the Laws and Cuſtomes of the ſame, appertained to the Spiritual Juriſdiction of this Realm, then already commenced, moved, depending, being, happening, or hereafter coming in contention, debate or queſtion within this Realm, or within any of the King's dominions, or Marches of the ſame, or elſewhere, whether they concern the King, his Heirs or Succeſſors, or any other ſubjects or reſiants within this Realm, of what degree ſoever they be, ſhould be from thenceforth heard, examined, diſcuſſed, clearly, finally and definitively adjudged and determined, within the King's Juriſdiction and Authority, and not elſewhere, in ſuch Courts Spiritual and Temporal of the ſame as the natures, conditions and qualities of the Caſes and matters aforeſaid in contention, or thereafter happening in contention, ſhould require, without having any reſpect to any cuſtome, uſe or ſufferance in hinderance, lett or prejudice of the ſame, or to any other thing uſed or ſuffered to the contrary thereof, by any other manner perſon or perſons in any manner of wiſe; any forrein Inhibitions, Appeals, Sentences, Summons, Citations, Suſpenſions, Interdictions, Excommunications, Reſtraints, Judgements, or any other Proceſs or Impediment, of what natures, names, qualities or conditions ſoever they be, from the See of *Rome*, or any other forrein Courts or Potentates of the world, or from and out of this Realm, or any other the King's dominions, or Marches of the ſame, to the See of *Rome*, or to any other forrein Courts or Potentates, to the let tor impediment thereof, in any wiſe notwithſtanding, as by the ſaid Act appeareth.

This alſo is declaratory of the ancient Law, as it appeareth both by 9 E. 4.3. Fitz. Na. B. 44. and many other caſes and ſtatutes aboveſaid.

By

Statut. de 25 H. 8. cap. 1. This was alſo declaratory of the ancient Law, as by that which hath been ſaid appeareth.

By an Act of Parliament in 25 *H.* 8. it is declared by the King, the Lords Spiritual and Temporal, and the Commons in that Parliament aſſembled, That neither the King, his Heirs nor Succeſſors, Kings of this Realm, nor any his ſubjects of this Realm, nor of any other his dominions, ſhould from thenceforth ſue to the ſaid Biſhop of *Rome*, called *the Pope*, or to the See of *Rome*, or to any perſon or perſons having or pretending any Authority by the ſame, for Licences, Diſpenſations, Impoſitions, Faculties, Grants, Reſcripts, Delegacies, or any other Inſtruments or Writings, of what kind, name, nature or quality ſoever they be, for any cauſe or matter for the which any Licence, Diſpenſation, Compoſition, Faculty, Grant, Reſcript, Delegacy, Inſtrument or other Writing, theretofore had been uſed and accuſtomed to be had and obtained at the See of *Rome*, or by authority thereof, or of any Prelat of this Realm; nor for any manner of other Licences, Diſpenſations, Compoſitions, Faculties, Grants, Reſcripts, Delegacies, or any other Inſtruments or Writings, that in caſes of neceſſity might lawfully be granted without offending of the Holy Scriptures and Laws of God: But that from thenceforth every ſuch Licence, Diſpenſation, Compoſition, Faculty, Grant, Reſcript, Delegacy, Inſtrument, and other Writing afore named and mentioned, neceſſary for the King, his Heirs and Succeſſors, and his and their people and ſubjects, upon the due examination of the cauſes and qualities of the perſons procuring ſuch Diſpenſations, Licences, Compoſitions, Faculties, Grants, Reſcripts, Delegacies, Inſtruments, or other Writings, ſhould be granted, had and obtained from time to time within this his Realm, and other his dominions, and not elſewhere, in manner and form following, and not otherwiſe. That is to ſay, The Archbiſhop of *Canterbury* for the time being, and his Succeſſors, ſhould have power and authority from time to time by their diſcretions to give, grant and diſpoſe by an Inſtrument under the Seal of the ſaid Archbiſhop unto the King, and unto his Heirs and Succeſſors Kings of this Realm, as well all manner of ſuch Licences, Diſpenſations, Compoſitions, Faculties, Grants, Reſcripts, Delegacies, Inſtruments,

and all other Writings, for cauſes not being contrary or repugnant to the Holy Scriptures and Laws of God, as theretofore had been uſed and accuſtomed to be had and obtained by the King, or any his moſt noble Progenitors, or any of his or their Subjects, from the See of *Rome*, or any perſon or perſons by authority of the ſame; and all other Licences, Diſpenſations, Faculties, Compoſitions, Grants, Reſcripts, Delegacies, Inſtruments, and other Writings, in, for and upon all ſuch cauſes and matters, as ſhould be convenient and neceſſary to be had for the honour and ſurety of the King, his Heirs and Succeſſors, and the wealth and profit of this his Realm: ſo that the ſaid Archbiſhop, or any his Succeſſors, in no manner wiſe ſhould grant any Diſpenſation, Licence, Reſcript, or any other Writing before rehearſed, for any cauſe or matter repugnant to the Law of Almightie God, as by the ſaid Act alſo appeareth. If it be demanded what Canons, Conſtitutions, Ordinances and Synodals provincial, are ſtill in force within this Realm; I anſwer, that it is reſolved and enacted by Authority of Parliament, That ſuch as have been allowed by general conſent and cuſtome within the Realm, and are not contrariant or repugnant to the Laws, Statutes and Cuſtomes of this Realm, nor are to the dammage or hurt of the King's Prerogative royal, are ſtill in force within this Realm, as the King's Eccleſiaſtical Laws of the ſame. Now, as conſent and cuſtome hath allowed thoſe Canons; ſo, no doubt, by general conſent of the whole Realm any of the ſame may be corrected, inlarged, explained or abrogated. For example; There is a Decree that all Clerks that have received any manner of Orders, greater or ſmaller, ſhould be exempt *pro cauſis criminalibus* before the Temporal Judges: This Decree had never any force within *England*. Firſt, for that it was never approved and allowed of by general conſent within the Realm. Secondly, it was againſt the Laws of the Realm, as it doth appear by infinite precedents. Thirdly, it was againſt the Prerogative and Sovereignty of the King, that any ſubject within this Realm ſhould not be ſubject to the Laws of this Realm.

This appeareth by reſolution of all the Judges in 7th H. 8. Lib. Keylw. fo. 181. And this was long before any Act of Parliament was made againſt forrein juriſdiction by King Henry the 8.

In

In the Reign of Queen Elizabeth.

BY the ſaid Act of Parliament (whereupon the principal caſe then in queſtion partly dependeth) made in the firſt year of the Reign of Queen *Elizabeth*, it is declared, That where in the time of the Reign of King *Henry* the 8. divers good Laws and Statutes were made and eſtabliſhed, as well for the utter extinguiſhment and putting away of all uſurped and forrein powers and authorities out of this Realm, and other her dominions and countries, as alſo for the reſtoring and uniting to the Imperial Crown of this Realm the ancient Juriſdiction, Authorities, Superiorities and Preheminences to the ſame of right belonging and appertaining; by reaſon whereof her moſt humble ſubjects, from the 25. year of the ſaid King *Henry* the 8. were continually kept in good order, and were diſburthened of divers great and intolerable charges and vexations, before that time unlawfully taken and exacted by ſuch forrein power and authority as before that was uſurped; And to the intent that all uſurped and forrein power and authority, Spirituall and Temporal, might for ever be clearly extinguiſhed, and never be uſed or obeyed within this Realm, or any other her dominions or countries: It was by the Authority of that Parliament enacted, That no forrein Prince, perſon, Prelate, State or Potentate, Spiritual or Temporal, ſhould at any time after the laſt day of that Seſſion of Parliament uſe, enjoy or exerciſe any manner of Power, Juriſdiction, Superiority, Authority, Preheminence or Priviledge, Spiritual or Eccleſiaſtical, within this Realm, or within any other the Queen's dominions or countries, that then were or hereafter ſhould be, but from thenceforth the ſame ſhould be clearly aboliſhed out of this Realm, and all other her dominions for ever, any Statute, Ordinance, Cuſtomes, Conſtitutions, or any other matter or cauſe whatſoever, to the contrary in any wiſe notwithſtanding. And it was then alſo eſtabliſhed and enacted by the Authority of that Parliament, That ſuch Juriſdicti-

The Statute of 1 Q. Eliz.

ons, Priviledges, Superiorities and Preheminences Spiritual and Eccleſiaſtical, as by any Spiritual or Eccleſiaſtical power or authority had heretofore been, or might lawfully be, exerciſed or uſed for the viſitation of the Eccleſiaſtical ſtate and perſons, and for reformation, order and correction of the ſame, and of all manner Errours, Hereſies, Schiſms, Abuſes, Offences, Contempts and Enormities, ſhould for ever by Authority of that Parliament be united and annexed to the Imperial Crown of this Realm: And that the Queen, her Heirs and Succeſſors, Kings or Queens of this Realm, ſhould have full power and authority by virtue of that Act, by Letters Patents under the great Seal of *England* to aſſign, name and authorize, when and as often as the Queen, her Heirs or Succeſſors, ſhould think meet and convenient, and for ſuch and ſo long time as ſhould pleaſe the Queen, her Heirs or Succeſſors, ſuch perſon or perſons, being natural-born Subjects to the Queen, her Heirs or Succeſſors, as the ſaid Queen, her Heirs or Succeſſors, ſhould think meet, to exerciſe, uſe, occupy and execute, under the ſaid Queen, her Heirs or Succeſſors, all manner of Juriſdictions, Priviledges and Preheminences, in any wiſe touching or concerning any Spiritual or Eccleſiaſtical Juriſdiction, within theſe Realms of *England* and *Ireland*, or any other her dominions and countries; and to viſit, reform, redreſs, order, correct and amend all ſuch Errours, Hereſies, Schiſms, Abuſes, Offences, Contempts and Enormities whatſoever, which by any manner Spiritual or Eccleſiaſticall power, authority or juriſdiction, could or might lawfully be reformed, ordered, redreſſed, corrected, reſtrained or amended, to the pleaſure of Almighty God, the encreaſe of vertue, and the conſervation of the peace and the unity of this Realm: And that ſuch perſon or perſons ſo to be named, aſſigned, authorized and appointed by the ſaid Queen, her Heirs or Succeſſors, after the ſaid Letters Patents to him or them made and delivered as is aforeſaid, ſhould have full power and authority, by virtue of that Act, and of the ſaid Letters Patents, under the ſaid Queen, her Heirs or Succeſſors, to exerciſe, uſe and execute all the premiſſes, according to the tenour and effect of the

ſaid

ſaid Letters Patents, any matter or cauſe to the contrary in any wiſe notwithſtanding, as by the ſaid Act alſo appeareth.

It was adjudged in the Court of Common Pleas by Sir *James Dyer*, *Weſton*, and the whole Court, that a Dean or any other Eccleſiaſticall perſon may reſign to the Crown, as divers did to King *Edward* the 6. for that he had the Authority of the ſupreme Ordinary. 12 *Eliz.* *Reg. Dyer.*

From the 1. untill the 11. year of Queen *Elizabeth*'s Reign, no perſon, of what perſwaſion of Chriſtian Religion ſoever, at any time refuſed to come to the publick Divine Service celebrated in the Church of *England*, being evidently grounded upon the Sacred and infallible Word of Almighty God, and eſtabliſhed by publick Authority within this Realm. But after the Bull of *Pius Quintus* was publiſhed againſt her Majeſty, in the 11. year of her Reign, containing (amongſt other things too long to be repeated for this purpoſe) theſe words, "*Pius* Biſhop, Servant of God's "ſervants, *&c.* She (Queen *Elizabeth*) hath clean put away "the Sacrifice of the Maſs, Prayers, Faſtings, Choice or difference of meats, and Single life; She, poſſeſſing the Kingdome, and by uſurping the place of the Supreme Head of "the Church in all *England*, and the chief Authority and Juriſdiction of the ſame, hath again brought the ſaid Realm "into miſerable deſtruction; Unto her all ſuch as are the "worſt of the people reſort, and are by her received into "ſafe protection, *&c.* We make it known, that the ſaid "*Elizabeth*, and as many as ſtand on her ſide in the matter "above named, have run into the danger of our Curſe: We "make it alſo known, that we have deprived her from that "right ſhe pretended to have in the Kingdome aforeſaid, "and alſo from all and every her Authority, Dignity and "Priviledge: We charge and forbid all and every the Nobles, Subjects and people, and others aforeſaid, that they be "not ſo hardy as to obey her, or her Admonitions, Commandments or Laws, upon pain of the like accurſe upon "them: We pronounce that all whoſoever by any occaſion "have taken their Oath unto her, are for ever diſcharged of ſuch

Pſalm. 109. 28. Though they curſe, yet bleſs thou, O Lord, and let them be confounded that riſe againſt me: but let thy ſervant rejoyce. *Which was the prayer her Majeſty made when this Bull was publiſhed againſt her.*

"ſuch their Oath, and alſo from all Fealty and Service "which was due to her by reaſon of her Government, *&c.* (as by the ſaid Bull more at large appeareth) After this Bull, all they that depended on the Pope obeyed the Bull, diſobeyed their gracious and natural Sovereign, and upon this occaſion refuſed to come to the Church. The publiſhing of this Bull by a ſubject againſt his Sovereign (as appeareth by that which hath been oftentimes ſaid) was Treaſon in the higheſt degree by the ancient Common Laws of *England*. For if it were Treaſon to publiſh a Bull of Excommunication within this Realm againſt a Subject thereof, as it was adjudged in the Reign of King *Edward* the 1. *à fortiori* it is Treaſon in the higheſt degree to publiſh ſuch a Bull againſt the Sovereign and Monarch her ſelf. After this Bull many Bulls of Abſolution and Reconciliation to the Church of *Rome* were publiſhed and diſperſed amongſt her Majeſtie's ſubjects, to withdraw them from their natural Loyalty and Allegeance to their Sovereign; whereupon no ſmall inconveniences (as hereafter appeareth) followed. And therefore at a Parliament holden in the 13. year of her Reign it was declared by the whole Body of the Realm, That divers ſeditious and very ill-diſpoſed people, minding very ſeditiouſly and unnaturally, not onely to bring this Realm and the Imperial Crown thereof (being in very deed of it ſelf moſt free) again into the thraldome and ſubjection of the forrein uſurped and unlawful Juriſdiction, Preheminence and Authority, claimed by the ſaid See of *Rome*, but alſo to eſtrange and alienate the minds and hearts of ſundry the Queen's ſubjects from their dutiful Obedience, and to raiſe and ſtir Sedition and Rebellion within this Realm, did then lately procure and obtain to themſelves, from the ſaid Biſhop of *Rome* and his ſaid See, divers Bulls and Writings, the effect whereof had been, and then was, to abſolve and reconcile all thoſe that would be contented to forſake their due Obedience to the Queen, and to yield and ſubject themſelves to the ſaid feigned, unlawful and uſurped Authority; and by colour of the ſaid Bulls and Writings, the ſaid perſons very ſecretly and moſt ſeditiouſly, in ſuch parts of this Realm where

The Statute of 13 Eliz.

where the people for want of good instruction were most weak, simple and ignorant, and thereby farthest from the good understanding of their duties towards God and the Queen, did by their lewd and subtil practices and perswasions so far forth work that sundry simple and ignorant persons had been contented to be reconciled to the said usurped Authority of the See of *Rome*, and to take Absolution at the hands of the said naughty and subtil practisers: whereby did grow great disobedience and boldness in many, not onely to withdraw and absent themselves from all Divine Service, then most godly set forth and used within this Realm, but also to think themselves discharged of and from all Obedience, Duty and Allegeance to her Majesty, whereby most wicked and unnatural Rebellion did ensue, and, to the farther danger of this Realm, was thereafter very like to be renewed, if the ungodly and wicked attempts in that behalf were not by severity of Laws in time restrained and bridled. For remedy and redress whereof, and to prevent the great mischiefs and inconveniences that thereby might ensue, it was enacted by the Queen, with the assent of the Lords Spiritual and Temporal and the Commons in that Parliament assembled, and by the Authority of the same, That if any person or persons, after the first day of *July* then next coming, should use or put in ure in any place within this Realm, or in any the Queen's dominions, any such Bull, Writing or Instrument, written or printed, of Absolution or Reconciliation, at any time theretofore obtained and gotten or at any time thereafter to be obtained or gotten from the said Bishop of *Rome*, or any his Successors, or from any other person or persons authorized or claiming authority by or from the said Bishop of *Rome*, his Predecessors or Successors, or the See of *Rome*; Or if any person or persons, after the said first day of *July*, should take upon him or them, by colour of any such Bull, Writing, Instrument or Authority, to absolve or reconcile any person or persons, or to grant or promise to any person or persons within this Realm, or any other the Queen's dominions, any such Absolution or Reconciliation, by any speech, preaching, teaching, writing, or any other open

Note the fruits of the Bull.

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The parts of the Act.

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3. open deed; Or if any other perſon or perſons within this Realm, or any the Queen's dominions, after the ſaid firſt day of *July*, ſhould willingly receive and take any ſuch Abſolu-
4. tion or Reconciliation; Or elſe if any perſon or perſons had obtained or gotten ſithence the laſt day of the Parliament holden in the firſt year of her Reign, or after the ſaid firſt day of *July* ſhould obtain or get, from the ſaid Biſhop of *Rome*, or any his Succeſſors, or the See of *Rome*, any manner of Bull, Writing or Inſtrument, written or printed, containing any thing, matter or cauſe whatſoever; Or ſhould publiſh, or
5. by any waies or means put in ure, any ſuch Bull, Writing or Inſtrument: That then all and every ſuch act or acts, offence and offences, ſhould be deemed and adjudged by the Authority of the ſaid Act to be high Treaſon, and the Offendor and Offendors therein, their Procurors, Abettors and Counſellours to the fact, and committing of the ſaid offence or offences, ſhould be deemed and adjudged high Traitours to the Queen and the Realm; and being thereof lawfully indicted and attainted, according to the courſe of the Laws of this Realm, ſhould ſuffer pains of death, alſo loſe and forfeit all their Lands, Tenements, Hereditaments, Goods and Chattels, as in caſes of high Treaſon by the Laws of this Realm ought to be loſt and forfeited, as by the ſaid Act appeareth.

And albeit many of her ſubjects, after the ſaid Bull of *Pius Quintus*, adhering to the Pope, did renounce their former Obedience to the Queen in reſpect of that Bull; yet all this time no Law was either made or attempted againſt them for their Recuſancy, though it were grounded upon ſo diſloyal a Cauſe. Now that theſe ſpeechleſs Bulls were declared by Act of Parliament to be ſo dangerous, then in place of them Jeſuites and *Romiſh* Prieſts were ſent over, who in ſecret corners whiſpered and infuſed into the hearts of many of the unlearned ſubjects of this Realm, that the Pope had power to excommunicate and depoſe Kings and Princes; that he had excommunicated the Queen, deprived her of her Kingdome, and diſcharged all her ſubjects of their Oath, Duties, and Allegeance to her; and therefore they ought not to

obey

obey her, or any of her Commandments or Laws, under pain of the Pope's Curſe. This was high Treaſon by the ancient Laws of *England:* And thereupon *Campion*, *Sherwin*, and many other *Romiſh* Prieſts, being apprehended, and confeſſing that they came into *England* to make a party for the Catholick cauſe when need ſhould require, were in the 21. year of the ſaid Queen's Reign, by the ancient Common Laws of *England*, indicted, arraigned, tried, adjudged and executed for high Treaſon againſt their natural Allegeance which they ought their liege Sovereign. But all this time there was no Act of Parliament made either againſt Recuſants, or Jeſuites, or Prieſts, her Majeſty ſtill deſiring and expecting their converſion, and that by clemency and mildneſs they might be reclaimed to their former obedience and conformity before the ſaid Bull. After Prieſts and Jeſuites were puniſhed by ſentence of Law according to their demerits: then great numbers of ſlanderous and ſeditious Books (*libri falſidici*) againſt her Majeſty and the State were diſperſed and ſcattered within this Realm, tending to the inciting and ſtirring of the Subjects to Inſurrection and Rebellion.

Her Majeſtie in open Parliament, having with the Lords Spiritual and Temporal, and Commons, mature conſideration of ſo weighty and important cauſes, in the 23. year of her Reign made two ſeveral Laws. One againſt the makers and publiſhers of Seditious Books, ordaining that offence to be Felony: another againſt Recuſants, inflicting the penalty of twenty pounds the month for their Recuſancie: and yet upon their ſubmiſſion according to the Act, to be thereof freely and abſolutely diſcharged, (a milde and merciful Law, conſidering their former Conformity, and the cauſe of their Revolt.) But after theſe Jeſuites and *Romiſh* Prieſts coming daily into and ſwarming within the Realm, inſtilling ſtill this poiſon into the Subjects hearts, that by reaſon of the ſaid Bull of *Pius Quintus* her Majeſty was excommunicated, deprived of her Kingdome, & that her Subjects were diſcharged of all Obedience to her, and by all means endeavouring to withdraw them from their Duty and Allegeance to her Majeſty, and to

The Statute of an. 23 Regine Eliz.

The Statute of an. 27 Eliz. Regin.

reconcile them to the Church of *Rome*; in the 27. year of her Reign, by Authority of Parliament, her Majeſty made it Treaſon for any Jeſuite or *Romiſh* Prieſt, being her natural-born Subject, and made a *Romiſh* Prieſt or Jeſuite ſithence the beginning of her Reign, to come into any of her dominions; intending thereby to keep them out of the ſame, to the end that they ſhould not infect any other Subjects with ſuch treaſonable and damnable perſwaſions and practices as are aforeſaid, which without controverſie were high Treaſon by the ancient Common Laws of *England*. Neither would ever magnanimous King of *England*, ſithence the firſt eſtabliſhment of this Monarchy, have ſuffered any (eſpecially being his own natural-born Subjects) to live, that perſwaded his Subjects that he was no lawfull King, and practiſed with them (within the heart of this Realm) to withdraw them from their Allegeance and Loyalty to their Sovereign, the ſame being *crimen læſæ Majeſtatis* by the ancient Laws of this Realm.

BY this and by all the Records of the Indictments it appeareth that theſe Jeſuites and Prieſts are not condemned and executed for their Prieſthood and Profeſſion, but for their treaſonable and damnable Perſwaſions, and Practices againſt the Crowns and Dignities of Monarchs and abſolute Princes, who hold their Kingdoms and Dominions by lawful Succeſſion, and by inherent Birth-right and deſcent of inheritance, (according to the fundamental Laws of this Realm) immediately of Almighty God, and are not Tenants of their Kingdomes (as they would have it) at the will and pleaſure of any forrein Potentate whatſoever.

Now albeit the proceedings and proceſs in the Eccleſiaſtical Courts be in the name of the Biſhops, &c. it followeth not therefore, that either the Court is not the King's, or the Law whereby they proceed is not the King's Law. For, taking one example for many, every Leet or View of Frankpledge holden by a Subject is kept in the Lord's name, and

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yet it is the King's Court, and all the proceedings therein are directed by the King's Laws : and many ſubjects in *England* have and hold Courts of Record and other Courts, and yet all their proceedings be according to the King's Laws and the Cuſtomes of the Realm.

Obſerve, (good Reader) ſeeing that the determination of Hereſies, Schiſms, and Errours in Religion, Ordering, Examination, Admiſſion, Inſtitution and Deprivation of men of the Church, (which do concern God's true Religion and Service) of right of Matrimony, Divorces, and general Baſtardy, (whereupon depend the ſtrength of mens Diſcents and Inheritances) of probate of Teſtaments, and letters of Adminiſtration, (without which no debt or dutie due to any dead man can be recovered by the Common Law) Mortuaries, Penſions, Procurations, Reparations of Churches, Simony, Inceſt, Adultery, Fornication and Incontinency, and ſome others, doth not belong to the Common Law, how neceſſary it was, for adminiſtration of Juſtice, that his Majeſtie's Progenitors, Kings of this Realm, did by publick authority authorize Eccleſiaſticall Courts under them, to determine thoſe great and important Cauſes Eccleſiaſtical (exempted from the Juriſdiction of the Common Law) by the King's Laws Eccleſiaſtical. Which was done originally for two cauſes. 1. That Juſtice ſhould be adminiſtred under the Kings of this Realm within their own Kingdome, to all their Subjects, and in all Cauſes. 2. That the Kings of *England* ſhould be furniſhed upon all occaſions, either forrein or domeſtical, with learned Profeſſors as well of the Eccleſiaſticall as Temporall Laws.

THus hath it appeared, as well by the ancient Common Laws of this Realm, by the Reſolutions and Judgements of the Judges and Sages of the Laws of *England* in all ſucceſſion of ages, as by Authority of many Acts of Parliament, ancient and of latter times, That the Kingdome of *England* is an abſolute Monarchy, and that the King is the

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onely Supreme Governour, as well over Eccleſiaſticall perſons and in Eccleſiaſtical cauſes, as Temporal, within this Realm; to the due obſervation of which Laws both the King and the Subject are ſworn. I have herein cited the very words and texts of the Laws, Reſolutions, Judgements, and Acts of Parliament, all publick and in print, without any inference, argument, or amplification; and have particularly quoted the books, years, leaves, chapters, and ſuch like certain references, as every man may at his pleaſure ſee and reade the Authorities herein cited. This Caſe is reported in the Engliſh and Latine tongues, (as ſome other Writers of the Law have done,) to the end that my dear Countrymen may be acquainted with the Laws of this Realm, their own Birth-right and inheritance, and with ſuch evidences as of right belong to the ſame: aſſuring my ſelf that no wiſe or true-hearted *Engliſh-man*, that hath been perſwaded before he was inſtructed, will refuſe to be inſtructed in the truth, (which he may ſee with his own eyes) leſt he ſhould be diſſwaded from errour, wherewith blindfold he hath been deceived. For miſerable is his caſe, and worthy of pity, that hath been perſwaded before he was inſtructed, and now will refuſe to be inſtructed, becauſe he will not be perſwaded.

FINIS.

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